

Attachment 1

Order, In the Matter of: Union Elementary School District, No. 62, Case Number 2007-002

BEFORE THE ARIZONA STATE BOARD OF EDUCATION

In the Matter of:

Union Elementary School District, No. 62

Respondent.

CASE NO. 2007-002

ORDER

On June 25, 2007, the Arizona State Board of Education (the "Board") met to consider placement of the Union Elementary School District, No. 62 ("Respondent") into immediate receivership.

The Respondent was present and represented by Justin Greene, Superintendent, and Elaine Dawson, President, Union Elementary School District Governing Board. The State was represented by Chad Sampson and Jennifer Pollock, Assistant Attorneys General. Christopher Munns, Assistant Attorney General, of the Solicitor General's Office was present to provide independent legal advice to the Board.

The Board met to consider the State's Proposed Findings of Fact, Conclusions of Law, and Order. After review of the information presented by the parties, and having completed full and careful deliberation of the same, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

To the extent the following Findings of Fact constitute Conclusions of Law, they are incorporated into the Conclusions of Law.

A. Introduction

1. Arizona public schools receive basic state aid based upon the number of students in attendance. A.R.S. § 15-902. The student membership count plus additional funding support for certain groups of students, such as English language learners and special education students, form the Base Support Level for each school district. A.R.S. § 15-943. A school district's Base Support Level in addition to other state funding it receives determines a school district's annual budget limit. A.R.S. § 15-905.
2. Pursuant to A.R.S. § 15-905(E), a school district's governing board is required to adopt a budget. The adopted budget consists of several budget categories such as Maintenance and Operations, Unrestricted Capital and Soft Capital. A school district's budget may not exceed the budget limits, as defined in A.R.S. § 15-947, in any of these budget categories. A.R.S. § 15-905(E).
3. A school district must submit its adopted budget to the County School Superintendent and the Superintendent of Public Instruction by July 18th of each year. *Id.* The Superintendent of Public Instruction must review the school district's adopted budget and notify the school district's governing board if the adopted budget is in excess of the statutory limits set for each of the budget categories. *Id.*
4. On or before December 15th of each year, a school district's governing board must adopt a revised budget conforming to the information provided by the Superintendent of Public Instruction and submit the revised budget to the County School Superintendent and the Superintendent of Public Instruction by December 18th. *Id.* A school district may further revise its budget to adjust for growth in the student population after the 100th day of school. A.R.S. § 15-948.

5. School districts that make expenditures in excess of their budget limits without authorization as provided in A.R.S. § 15-907 must reduce their budget limits for the subsequent fiscal year or, in the case of hardship, over the next two fiscal years following the over-expenditures. A.R.S. § § 15-905(M) and 15-915(A).

6. A school district's revenue control limit is calculated by adding the Base Support Level funding with the transportation revenue as calculated in A.R.S. §15-946. *See* A.R.S. § 15-947.

B. Union Elementary School District, No. 62

7. The District is an Arizona public school district, funded by public monies and charged with the responsibility of educating students in grades kindergarten through eight.

8. The District, acting through its officers and employees, has the fiduciary responsibility to safeguard the assets of the District to ensure they are used for a public purpose and in a fiscally prudent manner.

9. For the past several years, the District exceeded its revenue control limit and budget capacity.

10. In fiscal year 2004-2005, the District had a general budget limit of approximately \$2,212,567.00 and a revenue control limit of \$2,001,766.00. In that same year, the District over expended its Maintenance and Operations budget by approximately \$6,998.00, resulting in a 0.32 percent over-expenditure of the District's general budget limit and 0.35 percent over-expenditure of the District's revenue control limit. *See* Exhibits "A" and "B" attached.

11. In fiscal year 2005-2006, the District had a general budget limit of approximately \$4,550,489.00 and revenue control limit of \$4,313,917.00. In that same year, the District over-expended its Maintenance and Operations budget by approximately \$968,535.00, resulting in a 21.28 percent over-expenditure of the District's general budget limit and a 22.45 percent over-expenditure of the District's revenue control limit. *See* Exhibits "B" and "C" attached.

12. The Arizona Department of Education has not received the District's annual financial reports for the current 2006-2007 fiscal year.

13. In May 2007, the Maricopa County School Superintendent informed the District that it had exceeded its budget for the current fiscal year and that the County School Superintendent would not draw future warrants in excess of that budget.

14. The Arizona Legislature passed and the Governor signed House Bill 2612 ("H.B. 2612" or "the Budget Correction Law") on May 31 and June 1, 2007, respectively. This new law requires the District to correct its over-expenditures over a five-year period rather than the two-year period allowed by A.R.S. §§ 15-905(M) and 15-915(A). 2007 Ariz. Sess. Laws, ch. 238, § 1. In addition, the Budget Correction Law mandates that the State Board immediately appoint a receiver pursuant to A.R.S. § 15-103 for any school district that uses the provisions of section 1 regarding budget correction procedures. 2007 Ariz. Sess. Laws, ch. 238, § 2. The Budget Correction Law became effective immediately pursuant to an emergency clause. 2007 Ariz. Sess. Laws, ch. 238, § 4.

15. The District's total over-expenditure for fiscal years 2004-2005 and 2005-2006 is approximately \$975,533.00. *See Exhibit "B"* attached.

16. The District is located in Maricopa County, which has a 2006 population estimate of 3,768,123.00. *See Exhibit "D"* attached.

17. The District's 100th day student count for the 2006-2007 school year was 1345.537. *See Exhibit "E"* attached.

CONCLUSIONS OF LAW

To the extent the following Conclusions of Law constitute Findings of Fact, they are incorporated into the Findings of Fact.

1. The State Board has the jurisdiction and the authority to place school districts in receivership pursuant to A.R.S. § 15-103 and the Budget Correction Law. A.R.S. § 15-103 and 2007 Ariz. Sess. Laws, ch. 238, § 2.

2. Section 1 of the Budget Correction Law states that, notwithstanding the limitations set forth in A.R.S. §§ 15-905 and 15-915, a school district that over-expended its budget in fiscal years 2004-2005 and 2005-2006 is required to correct those over-expenditures, plus any over-expenditures for fiscal year 2006-2007, over a five-year period beginning in fiscal year 2007-2008 and ending in fiscal year fiscal year 2011-2012. 2007 Ariz. Sess. Laws, ch. 238, § 1.

3. Section 1 of the Budget Correction Law also states that a school district shall take advantage of the five year correction period if: (1) the school district is an elementary school district that is located in a county with a population that exceeds one million five hundred thousand persons; (2) the school district's student count for the 2006-2007 school year was more than one thousand three hundred pupils and less than one thousand eight hundred pupils; (3) the total amount of the corrections that would otherwise be required under A.R.S. § 15-915 for fiscal year 2004-2005 is more than six thousand dollars but less than ten thousand dollars; and (4) the total amount of the correction that would otherwise be required under A.R.S. § 15-915 for fiscal year 2005-2006 is more than seven hundred thousand dollars but less than one million one hundred thousand dollars. 2007 Ariz. Sess. Laws, ch. 238, § 1(A) (1) – (4).

4. Section 2 of the Budget Correction Law states that the State Board shall immediately appoint a receiver pursuant to A.R.S. § 15-103 for any school district that uses the provisions in section 1 of the act. 2007 Ariz. Sess. Laws, ch. 238, § 2.

5. The District falls within the parameters of section 1 of the Budget Correction Law. Specifically, the District is a kindergarten through eighth grade elementary school district located in Maricopa County, which has a 2006 estimated population of 3,768,123; the District's 100th day student count for the 2006-2007 school year was 1345.537; the District's total amount of over-expenditure in fiscal year 2004-2005 was approximately \$6,998.00; and the District's total amount of over-expenditure in fiscal year 2005-2006 was

approximately \$968,535.00. Therefore, the Board shall place the District in immediate receivership pursuant to 2007 Arizona Session Laws, Chapter 238, Section 2.

ORDER

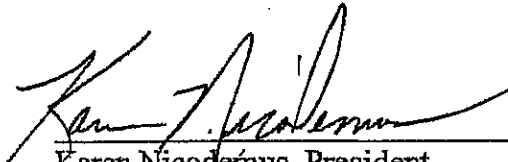
Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered placing the Union Elementary School District into immediate receivership and naming Simon Consulting, LLC as receiver.

NOTICE OF APPEALABLE AGENCY ACTION

You are advised under A.R.S. § 41-1092.03 that this Order constitutes an appealable agency action subject to a hearing under A.R.S. §§ 41-1092, et seq. You are entitled to have a hearing before an administrative law judge or the Board on the appointment of a receiver under Arizona Session Laws, Chapter 238 §§ 1 and 2 by filing a written request for a hearing within thirty (30) days after receipt of this Order. The request for hearing must identify the party, the party's address, the agency, the action being appealed, and a concise statement of the reasons for the appeal. Additionally, under A.R.S. § 41-1092.06, you are hereby notified that you have the right to request an informal settlement conference by filing such a request with the Board in writing no less than twenty (20) days before the hearing.

DATED this 28th day of June, 2007.

Arizona State Board of Education


Karen Nicodemus, President

A copy of the foregoing was mailed via U.S. Mail
this ____ day of June, 2007.

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Solicitor General's Office
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1275 W. Washington
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Attorney for the Water Quality Appeals Board

By: _____

Arizona Department of Education
Over Expenditure Report for Fiscal Year 2005
Union Elementary District

Description	ADE Calculated	District Amount	Difference
Comments and concerns about the content, the design, or the results should be e-mailed to schoolfinanca@ade.az.gov.			
Budget Version		675/2005	Revised #2
General Budget Limit			
Base Support Level	1,404,558		
Transportation Revenue Control Limit	152,699		
Type 03 Tuition	0		
ADE column includes values from most recent APOR55.			
Adjustment to actual HS Type 03 Tuition	0		
Reductions are made based on Type 03 tuition expenditures reported on APR			
Revenue Control Limit (RCL)	1,547,257	1,555,860	
Growth	353,404	353,404	
Adjusted RCL	2,000,661	2,008,764	(8,103)
Adjusted RCL in M&O	2,000,661	2,008,764	(8,103)
Adjusted RCL in Unr Cap	0	0	0
Capital Outlay Revenue Limit (CORL) Total	168,912	169,186	(274)
Capital Outlay Revenue Limit (CORL) M&O	120,000	120,000	0
Capital Outlay Revenue Limit (CORL) Unr Cap	48,912	49,186	(274)
Maintenance and Operations Override	0	0	0
Capital Override	0	0	0
Special K-3 Override (M&O)	0	0	0
Special K-3 Override (Capital)	0	0	0
Small School Adjustment (M&O)	0	0	0
Small School Adjustment (Unrestricted Capital)	0	0	0
Tuition Private M&O	0	0	0
Tuition Private Unrestricted	0	0	0
Tuition Other AZ Districts M&O	0	0	0
Tuition Other AZ Districts Unrestricted	0	0	0
Tuition Out of State Districts M&O	0	0	0
Tuition Out of State Districts Unrestricted	0	0	0
Tuition (Total) M&O	0	0	0
Tuition (Total) Unrestricted	0	0	0
Cent of Ed Convenience M&O	0	0	0
Cent of Ed Convenience Unrestricted	0	0	0
State Assistance (15-576) M&O	0	0	0
State Assistance (15-576) Unrestricted	0	0	0
Add-on for Children w/Disabilities and Indian Students M&O	25,428	25,428	0
Add-on for Children w/Disabilities and Indian Students Unrestricted	0	0	0
Administrative Costs M&O	2,414	2,414	0
Administrative Costs Unrestricted	0	0	0
Increase for Accommodation Schools	0	0	0
Desegregation M&O	0	0	0
Desegregation Unrestricted	0	0	0
Tuition Out Debt Services	0	0	0
Budget Balance Carry-Forward	62,959	62,959	0
Dropout Prevention	0	0	0
Excess Utilities	0	0	0
Assistance for Education M&O	0	0	0
Assistance for Education Unrestricted	0	0	0

Arizona Department of Education
Over Expenditure Report for Fiscal Year 2005
Union Elementary District

Description	ADE Calculated	District Amount	Difference
Registered Warrant Exp M&O	0	0	0
Registered Warrant Exp Unrestricted	0	0	0
Energy Reduction Adjustment	0	0	0
Joint Voc & Tech Center M&O	0	0	0
Joint Voc & Tech Center Unrestricted	0	0	0
Career Ladders Budget Balance Carry-Forward	0	0	0
Optional Performance Incentive Budget Balance Carry-Forward	0	0	0
Performance Pay Budget Balance Carry Forward	0	0	0
Adjustment to General Budget Limit	0	0	0
Total General Budget Limit for M&O	2,211,462	2,219,565	(8,103)
Plus or Minus Correction to FY 2004-05 Growth	1,105		
Less Growth Adjustment Requested to Unrestricted Capital (Included below)	0		
Adjusted General Budget Limit	2,212,567		
Budgeted Maintenance & Operations	2,219,565	2,219,565	0
Adjustments to Budgeted M&O (Growth, A.R.S. §15-915 & Resolutions)	1,105		
Adjusted Budgeted Maintenance and Operations	2,220,670		
Lesser of Budgeted or GBL for M&O		2,211,462	
Lesser of Adjusted Budgeted or Adjusted GBL for M&O		2,212,567	
Total M&O Expenditures (AFR)	2,219,565		
M&O Expenditures pursuant to A.R.S. §15-907	0		
Less Applicable M&O Expenditures		2,219,565	
Plus K-3 Override Budget Balance Carry Forward * 50%		0	
Unexpended Budget Balance (Over-Expenditure)			(6,998)
If the above row includes a negative value, the Maintenance & Operations Fund has been over-expanded and a resolution to reduce budget capacity and state aid, for FY 03-04, must be completed.			
Less Career Ladders Budget Balance		0	
Less Optional Performance Incentive Budget Balance		0	
Less Performance Pay Unexpended		0	
Applicable Unexpended Budget Balance			(6,998)
Budget Balance Carry Forward Limit (4% * (RCL + Growth Adjustment))		80,071	
Allowed Budget Balance Carry Forward		0	
Includes reduction for inter-fund transfers to School Opening Fund 945			

** Formula for calculating the adjusted growth (corrected growth total - original growth = adjusted growth amount)

Corrected Growth	354,509
Minus Growth Included in Final 04-05 AFR 55-1	353,404
Growth Adjustment	1,105

Please see memo at <http://www.ade.state.arizona.gov/Districts/ReportsData/ReportsData.asp> for your district, regarding information on growth calculation. This memo is also available in the School Finance memos section and the School Finance Bulletin Board.

Adjustments to FY 2005-06 Expenditure Budget and Worksheets

Increase to FY 2005-06 Unrestricted Capital due to greater than anticipated Growth (or by election of district)
Add to FY 2005-06 Expenditure Budget Page 8 of 8 Line A11 You may increase the budgeted unrestricted capital amount on page 4 Of 8 to reflect this increase

Adjustment, from page 7 of 8, to be included on FY 2005-06 Expenditure Budget, Page 8 of 8, Line A2 Unrestricted Capital (274)
Above line allows for carry forward of 1 half of the unexpended K-3
Override budgeted for in Unrestricted capital.
Adjustment amount for FY 2005-06 Budget Worksheet M, line 1b, 6,998
Amount on Worksheet M is subtracted. Amount should be included as displayed here.

Arizona Department of Education
Over Expenditure Report for Fiscal Year 2005
Union Elementary District

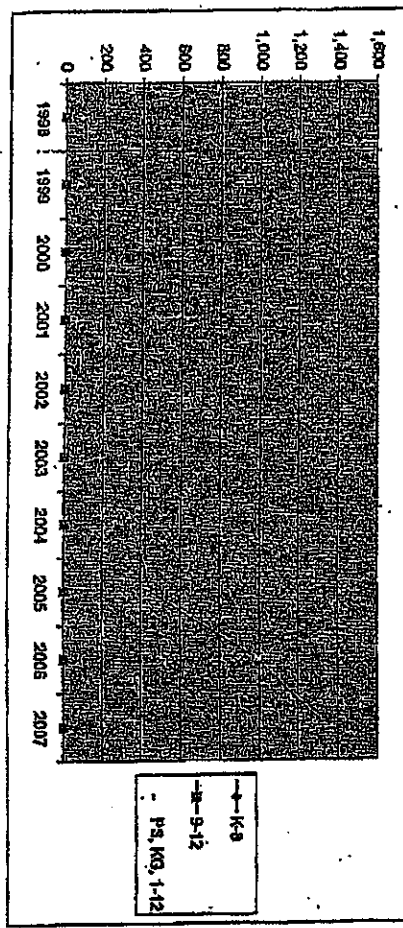
Description	ADE Calculated	District Amount	Difference
Unrestricted Capital Budget Limit			
Unrestricted Available in FY 2003-04	247,896	247,898	
Unrestricted Capital Budget Limit Adjustment	0	0	
Adjusted Unrestricted Available in FY03-04	247,896	247,898	0
Amount Budgeted in Unrestricted Cap FY 2003-04	247,896	247,898	0
Lesser of Available for Budgeted	247,896	247,898	0
Actual Unrestricted Expenditures FY 2003-04	171,516	171,516	0
FY 03-04 Unrestricted Unexpended Budget Bal	76,580	76,580	0
Interest Earned FY 2003-04	1,309	1,309	0
Federal Impact Adjustment	26,378	26,378	0
Moneys Deposited from SFB for Donated Land	0	0	
Adjustment to Unrestricted Capital Budget Limit (A.R.S. §15-915 and Resolutions)	0	0	0
Amount to be used for Capital (from page 7)	48,912	48,956	(274)
Adjustments to Unrestricted Capital FY 2004-05, page 7 of 8, included in above line	(274)	0	0
SBE Approval to Accum.	0	0	0
Unrestricted Capital Available FY 2004-05	153,179	153,453	(274)
Budgeted Unrestricted Capital (includes corrections pursuant to 15-915)	153,453		
Lesser of Budgeted or Unrestricted Capital Available		153,179	
Total Unrestricted Capital Expenditures	120,383		
Unrestricted Capital Expenditures pursuant to A.R.S. §15-907	0		
Applicable Unrestricted Capital Expenditures		120,383	
Unexpended Budget Balance (Unrestricted) or Over-Expenditure		32,796	
If the above row includes a negative value, Unrestricted Capital has been over-expanded and a resolution to reduce budget capacity and state aid must be completed.			
Soft Capital Allocation Limit			
Soft Capital Allocation Limit FY 2003-04	56,228	56,228	0
Soft Capital Allocation Limit Adjustments	0	0	0
Adjusted Soft Cap Alloc Limit FY 2003-04	56,228	56,228	0
Soft Capital Allocation Budgeted FY 2003-04	56,228	56,228	0
Lesser of Budgeted or Limit	56,228	56,228	0
Actual Soft Capital Allocation Exp FY 2003-04	32,032	32,032	0
FY 03-04 Unexpended Soft Capl Budge Bal	24,196	24,196	0
Interest Earned FY 2003-04	221	221	0
Soft Capital Allocation FY 2004-05	91,907	91,980	(73)
Capital Transportation Adjustment	0	0	0
Adjustment to Soft Capital Allocation Limit	0	0	0
Soft Capital Allocation Limit FY 2004-05	116,323	116,397	(74)
Budgeted Soft Capital	116,397	116,397	(1,000)
Lesser of Budgeted or Soft Capital Allocation Limit		116,323	
Actual 2004 Soft Capital Expenditures		60,019	
Unexpended Budget Balance (Soft Capital) or Over-Expenditure		56,304	
If the above row includes a negative value, Soft Capital Allocation has been over-expanded and a resolution to reduce budget capacity and state aid must be completed.			

Union Elementary District		Fiscal Year		Budget	Unexpended Capital	Maintenance & Operations	Adjusted RCL (Growth)	General Budget Limit (GBL)	Total Over-Expenditure Percent of RCL	Total Over-Expenditure Percent of GBL
070462000	Union Elementary District	2001		\$9,791	\$86,671	\$150,919	\$800,641	\$8,728,088	-0.35%	-0.32%
070462000	Union Elementary District	2002		\$17,449	\$122,744	\$102,658	\$897,270	\$1,284,341	-22.46%	-21.20%
070462000	Union Elementary District	2003		\$3,655	\$187,718	\$73,905	\$814,184	\$1,754,333	-0.35%	-0.32%
070462000	Union Elementary District	2004		\$24,195	\$78,880	\$82,059	\$1,583,073	\$2,121,657	-0.35%	-0.32%
070462000	Union Elementary District	2005		\$58,304	\$32,789	\$68,985	\$2,001,765	\$4,650,488	-0.35%	-0.32%
070462000	Union Elementary District	2006		\$3,180	\$1,107	(\$88,539)	\$4,313,917		-0.35%	-0.32%
070462000	Union Elementary District	2007		\$1	(\$9)	(\$37,113)	\$3,779,738		-0.35%	-0.32%

Reductions made to subsequent year budget limits pursuant to A.R.S. §15-905(L), waiving their right to a

Union Elementary District		Fiscal Year	Budget	Unexpended Capital	Maintenance & Operations	Adjusted RCL (Growth)	General Budget Limit (GBL)	Total Over-Expenditure Percent of RCL	Total Over-Expenditure Percent of GBL
070462000	Union Elementary District	1998	\$7,76	\$48,47	\$89,34	\$0.00	\$88,34	100	100
070462000	Union Elementary District	1999	\$4,66	\$40,47	\$78,51	\$0.00	\$78,51	100	100
070462000	Union Elementary District	2000	\$3,65	\$33,65	\$69,86	\$0.00	\$69,86	100	100
070462000	Union Elementary District	2001	\$4,89	\$27,93	\$71,19	\$0.00	\$71,19	100	100
070462000	Union Elementary District	2002	\$5,80	\$33,33	\$82,41	\$0.00	\$82,41	100	100
070462000	Union Elementary District	2003	\$11,41	\$31,53	\$184,62	\$0.00	\$184,62	100	100
070462000	Union Elementary District	2004	\$16,03	\$339,60	\$358,34	\$0.00	\$358,34	100	100
070462000	Union Elementary District	2005	\$38,25	\$160,51	\$448,14	\$0.00	\$448,14	100	100
070462000	Union Elementary District	2006	\$89,88	\$418,97	\$387,21	\$0.00	\$387,21	100	100
070462000	Union Elementary District	2007	\$83,16	\$57,88	\$1,943,94	\$0.00	\$1,943,94	100	100

State Aid Count (ADM-46-1, Resident ADM, KG @ 1/2)



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Arizona Department of Education
Over Expenditure Report for Fiscal Year 2006
Union Elementary District

Description	ADE Calculated	District Amount	Difference
Comments and concerns about the content, the design, or the results should be e-mailed to schoolfinance@ade.az.gov.			
Budget Version		5/12/2006	Revised #3
General Budget Limit			
Base Support Level	1,903,242		
Transportation Revenue Control Limit	237,718		
Type 03 Tution	0		
ADE column includes values from most recent AFOR65.			
Adjustments actual AS Type 03 Tution	0		
Reductions are made based on Type 03 tuition expenditures reported on APR			
Revenue Control Limit (RCL)	2,140,960	2,140,960	
Growth	2,136,635	2,136,635	
Adjusted RCL	4,277,595	4,277,595	0
Adjusted RCL in M&O	4,277,595	4,277,595	0
Adjusted RCL in Unr Cap	0	0	0
Capital Outlay Revenue Limit (CORL) Total	143,079	143,079	0
Capital Outlay Revenue Limit (CORL) M&O	0	0	0
Capital Outlay Revenue Limit (CORL) Unr Cap	143,079	143,079	0
Maintenance and Operations Override	214,096	214,096	0
Capital Override	0	0	0
Special K-3 Override (M&O)	0	0	0
This budget capacity calculation no longer considers actual K3 Override Reported Expenditures - updated (4/19/07)			
Special K-3 Override (Capital)	0	0	0
Small School Adjustment (M&O)	0	0	0
Small School Adjustment (Unrestricted Capital)	0	0	0
Tuition Private M&O		0	
Tuition Private Unrestricted		0	
Tuition Other AZ Districts M&O		0	
Tuition Other AZ Districts Unrestricted		0	
Tuition Out of State Districts M&O		0	
Tuition Out of State Districts Unrestricted		0	
Tuition (Total) M&O	0	0	0
Tuition (Total) Unrestricted	0	0	0
Cert of Ed Convenience M&O	0	0	0
Cert of Ed Convenience Unrestricted	0	0	0
State Assistance (15-976) M & O	0	0	0
State Assistance (15-976) Unrestricted	0	0	0
Add-on for Children w/Disabilities and Indian Students M&O	11,698	11,698	0
Add-on for Children w/Disabilities and Indian Students Unrestricted	0	0	0
Administrative Costs M&O	0	0	0
Administrative Costs Unrestricted	0	0	0
Increase for Accommodation Schools	0	0	
Desegregation M&O	0	0	0
Desegregation Unrestricted	0	0	0
Tuition Out Debt Services	0	0	0
Budget Balance Carry Forward	0	0	0
Dropout Prevention	0	0	0
Excess Utilities	10,778	285,324	(274,546)

Arizona Department of Education
Over Expenditure Report for Fiscal Year 2006
Union Elementary District

Description	ADE Calculated	District Amount	Difference
Assistance for Education M&O	0	0	0
Assistance for Education Unrestricted	0	0	0
Registered Warrant Exp M&O	0	0	0
Registered Warrant Exp Unrestricted	0	0	0
Energy Reduction Adjustment	0	0	0
Joint Voc & Tech Center M&O	0	0	0
Joint Voc & Tech Center Unrestricted	0	0	0
Career Ladders Budget Balance Carry-Forward	0	0	0
Optional Performance Incentive Budget Balance Carry-Forward	0	0	0
Performance Pay Budget Balance Carry Forward	0	0	0
Adjustment to General Budget Limit	0	0	0
Total General Budget Limit for M&O	4,514,167	4,788,713	(274,546)
Plus or Minus Correction to FY 2005-06 Growth	36,322		
Less Growth Adjustment Requested to Unrestricted Capital (Included below)	0		
Adjusted General Budget Limit	4,550,489		
Budgeted Maintenance & Operations	4,788,713	4,788,713	0
Adjustments to Budgeted M&O	36,322		
Adjusted Budgeted Maintenance and Operations	4,825,035		
Lesser of Budgeted or GBL for M&O		4,514,167	
Adjusted Lesser of Budgeted or GBL for M&O		4,550,489	
Total M&O Expenditures (AFR)	5,519,024		
M&O Expenditures pursuant to A.R.S. §15-907	0		
Less Applicable M&O Expenditures		5,519,024	
Add 50% of K-3 Unexpended Budget Balance to Total Expenditures		0	
Unexpended Budget Balance (Over Expenditure)		(968,535)	
If the above row includes a negative value, the Maintenance & Operations Fund has been over-expended and a resolution to reduce budget capacity and state aid, for FY 04-05, must be completed.			
Less Career Ladders Budget Balance		0	
Less Optional Performance Incentive Budget Balance		0	
Less Performance Pay Unexpended		0	
Applicable Unexpended Budget Balance		(968,535)	
Less Amount Moved to Unrestricted Capital due to Greater than Anticipated Growth		0	
Final Applicable Unexpended Budget Balance		(968,535)	
Budget Balance Carry Forward (Initial MCL + Growth Adjustment)		172,557	
Allowed Budget Balance Carry-Forward		0	
Includes reduction for inter-fund transfers to School Operating Fund 545			

** Formula for calculating the adjusted growth (corrected growth total - original growth = adjusted growth amount)

Corrected Growth	2,172,957
Minus Growth Included on Final 05-06 APOR55-1	2,136,635
Growth Adjustment	36,322

Please see memo at <http://www.ade.az.gov/Districts/ReportsData/ReportsData.asp>, for your district, regarding information on growth calculation. This memo is also available in the School Finance memos section and the School Finance Bulletin Board.

Adjustments to FY 2006-07 Expenditure Budget and Worksheets

Increase to FY 2006-07 Unrestricted Capital due to greater than anticipated Growth
Add to FY 2006-07 Expenditure Budget Page 8 of 8 Line A11 You may increase the budgeted unrestricted capital amount on page 4 of 8 to reflect this increase.

Adjustment, from page 7 of 8, to be included on FY 2006-07 Expenditure Budget, Page 8 of 8, Line A2 Unrestricted Capital
Above line allows for carry forward of 1 half of the unexpended K-3 Override budgeted for in Unrestricted capital.

Adjustment amount for FY 2006-07 Budget Worksheet M, line 1b.
Amount on Worksheet M is added. Amount should be included as displayed here.

36,304

Arizona Department of Education
Over Expenditure Report for Fiscal Year 2006.
Union Elementary District

Description	ADE Calculated	District Amount	Difference
Unrestricted Capital Budget Limit			
Unrestricted Available in FY 2004-05	153,453	153,453	
Unrestricted Capital Budget Limit Adjustment	(274)	(274)	
Adjusted Unrestricted Available in FY 04-05	153,179	153,179	0
Amount Budgeted in Unrestricted Cap FY 2004-05	153,453	153,453	0
Lesser of Available for Budgeted	153,179	153,179	0
Actual Unrestricted Expenditures FY 2004-05	120,383	120,383	0
FY 04-05 Unrestricted Unexpended Budget Bal	32,796	32,796	0
Interest Earned FY 2004-05	355	355	0
Federal Impact Adjustment	0	0	0
Monies Deposited from SFB for Donated land	0	0	0
Adjustment to Unrestricted Capital Budget Limit (A.R.S. §15-815 and Resolutions)	0	0	0
* Amount to be used for Capital (from page 7)	143,079	143,079	0
Adjustments to Unrestricted Capital FY 2005-06, page 7 of 8, included in above line	0		
SBE Approval to Accum.	0	0	0
Unrestricted Capital Available FY 2005-06	176,230	176,230	0
Budgeted Unrestricted Capital (Includes corrections pursuant to 15-815)	176,230		
Lesser of Budgeted or Unrestricted Capital Available		176,230	
Total Unrestricted Capital Expenditures	175,123		
Unrestricted Capital Expenditures pursuant to A.R.S. §15-807	0		
Applicable Unrestricted Capital Expenditures		(175,123)	
Unexpended Budget Balance (Unrestricted) or Over-Expenditure		1,107	
If the above row includes a negative value, Unrestricted Capital has been over-expended and a resolution to reduce budget capacity and state aid must be completed.			
Adjustment to be added to Page 5 Line A(11)			
Soft Capital Allocation Limit			
Soft Capital Allocation Limit FY 2004-05	116,323	116,323	0
Soft Capital Allocation Limit Adjustments	0	0	0
Adjusted Soft Cap Alloc Limit FY 2004-05	116,323	116,323	0
Soft Capital Allocation Budgeted FY 2004-05	115,397	116,397	(1,000)
Lesser of Budgeted or Limit	116,323	116,323	0
Actual Soft Capital Allocation Exp FY 2004-05	60,019	60,019	0
FY 04-05 Unexpended Soft Capl Budg Bal	56,304	56,304	0
Interest Earned FY 2004-05	1,262	1,262	0
Soft Capital Allocation FY 2005-06	113,307	113,307	0
Capital Transportation Adjustment	9,134	9,134	0
Adjustment to Soft Capital Allocation Limit	0	0	0
Soft Capital Allocation Limit FY 2005-06	180,008	180,007	1
Budgeted Soft Capital	180,007	180,007	0
Lesser of Budgeted or Soft Capital Allocation Limit		180,008	
Actual 2006 Soft Capital Expenditures		176,848	
Unexpended Budget Balance (Soft Capital) or Over-Expenditure		3,160	
If the above row includes a negative value, Soft Capital Allocation has been over-expended and a resolution to reduce budget capacity and state aid must be completed.			

U.S. Census Bureau

State & County QuickFacts

Maricopa County, Arizona

People QuickFacts	Maricopa County	Arizona
Population, 2006 estimate	3,768,123	6,166,318
Population, percent change, April 1, 2000 to July 1, 2006	22.6%	20.2%
Population, 2000	3,072,149	5,130,632
Persons under 5 years old, percent, 2005	8.2%	7.7%
Persons under 18 years old, percent, 2005	27.4%	26.6%
Persons 65 years old and over, percent, 2005	11.1%	12.8%
Female persons, percent, 2005	49.7%	49.9%
White persons, percent, 2005 (a)	89.0%	87.4%
Black persons, percent, 2005 (a)	4.3%	3.6%
American Indian and Alaska Native persons, percent, 2005 (a)	2.2%	5.1%
Asian persons, percent, 2005 (a)	2.7%	2.2%
Native Hawaiian and Other Pacific Islander, percent, 2005 (a)	0.2%	0.2%
Persons reporting two or more races, percent, 2005	1.6%	1.5%
Persons of Hispanic or Latino origin, percent, 2005 (b)	29.0%	28.5%
White persons not Hispanic, percent, 2005	61.5%	60.4%
Living in same house in 1995 and 2000, pct 5 yrs old & over	41.6%	44.3%
Foreign born persons, percent, 2000	14.4%	12.8%
Language other than English spoken at home, pct age 5+, 2000	24.1%	25.9%
High school graduates, percent of persons age 25+, 2000	82.5%	81.0%
Bachelor's degree or higher, pct of persons age 25+, 2000	25.9%	23.5%
Persons with a disability, age 5+, 2000	504,992	902,252
Mean travel time to work (minutes), workers age 16+, 2000	26.1	24.9
Housing units, 2005	1,481,431	2,544,806
Homeownership rate, 2000	67.5%	68.0%
Housing units in multi-unit structures, percent, 2000	26.6%	22.1%
Median value of owner-occupied housing units, 2000	\$129,200	\$121,300
Households, 2000	1,132,886	1,901,327
Persons per household, 2000	2.67	2.64
Median household income, 2004	\$48,304	\$43,696
Per capita money income, 1999	\$22,251	\$20,275

40th Day Counts			
Grade	Recalculated State Aid ADM	Cumulative Totals (Less PS)	Grade
KG	77,638	77,638	10
2	164,626	411,563	12
4	161,850	710,763	US
6	149,450	1,004,588	** (Total K-3 Group B Add-On 546,813)
8	133,200	1,289,388	*** Total K-US
Total All Grades			
1,343,837			
Total All Grades			
1,345,537 (ADJ)			

Grade	Recalculated State Aid ADM	Cumulative Totals
PS	1,700 *	9
1	185,714	268,861
3	146,384	577,680 **
5	150,610	897,280
7	158,320	1,205,360
9		1,343,837
UE	1343,837 ***	Total All Grades

Grade	Recalculated State Aid ADM	Cumulative Totals
PS	1,700 *	9
1	185,714	268,861
3	146,384	577,680 **
5	150,610	897,280
7	158,320	1,205,360
9		1,343,837
UE	1343,837 ***	Total All Grades

SAIS ADMIS4B-1

District Of Residence : 07-04-62 UNION ELEMENTARY DISTRICT

ARIZONA DEPARTMENT OF EDUCATION
2008-2007 REGALCULATED STATE AID ADM COUNTS

Page : 2
Data As Of Date : 06/09/2007
Print Date : 06/09/2007

Resident Membership ADM

School	Grade	Register ID
Hurley Ranch Elementary	PS	1000

Non-Resident Membership ADM

School	Grade	Register ID
UPWARD FOUNDATION INC.	PS	1000

ADE 4277

Attachment 2

Arizona Revised Statutes § 15-103

15-103. School districts; financial mismanagement; intervention; definitions

(Rpld. From and after the date of sine die adjournment of the Forty-eighth Legislature, Second Regular Session)

A. The state board of education shall review allegations of school district insolvency and gross mismanagement. The state board shall give the school district an opportunity to respond to these allegations at a public meeting. If the state board determines that the school district is insolvent or has grossly mismanaged its finances, the state board shall appoint a receiver for that school district.

B. The state board shall find a school district insolvent if it finds one or more of the following:

1. The school district is unable to pay debts as they fall due or in the usual course of business.
2. The salaries of any teachers or other employees have remained unpaid for forty-five days.
3. The tuition due another school district or other state institution remains unpaid on or after January 1 of the year following the school year it was due and there is no dispute regarding the validity or amount of the claim.
4. The school district has defaulted in payment of its bonds or interest on bonds or in payment of rentals due any state or federal authority or private business for a period of sixty calendar days and no action has been initiated within that period of time to make payment.
5. The school district has contracted for any loan not authorized by law.
6. The school district has accumulated and has operated with a deficit equal to five per cent or more of the school district's revenue control limit for any fiscal year within the past two fiscal years.
7. The school district's warrants have not been honored for payment by the school district's servicing bank or by the county treasurer and the warrants have remained unpaid for a period of more than sixty calendar days.

C. No school district shall be deemed to be insolvent pursuant to subsection B of this section if the circumstances are the result of the failure of the state to make any payments of monies due the school district at the time payment is due.

D. The state board of education shall have jurisdiction over all petitions requesting that a school district be placed in receivership and a receiver be appointed because of the school district's alleged insolvency or gross mismanagement. The state board shall have the burden of demonstrating by a preponderance of the evidence that the school district is insolvent or is engaged in gross mismanagement.

E. If the state board of education finds that the school district is insolvent or has engaged in gross mismanagement, the state board shall place the school district in receivership and appoint a receiver recommended by the state board. The state board shall develop and adopt a list of qualified receivers to be appointed by the board.

F. On appointment, the receiver shall begin a full review and investigation of the school district's financial affairs and submit to the state board of education a detailed report listing the findings of that investigation that shall include a financial improvement plan and budget that details how the school district will eliminate any continued gross financial mismanagement and achieve financial solvency. The plan shall include a proposed timeline for achieving financial solvency. The receiver shall submit the report within one hundred twenty days after the receiver's appointment. The financial improvement plan approved by the state board of education may authorize the receiver to do any of the following:

1. Override any decisions of the school district's governing board or the school district superintendent, or both, concerning the management and operation of the school district, and initiate and make decisions concerning the management and operation of the school district.
2. Attend any and all meetings of the school district's governing board and administrative staff.
3. Supervise the day-to-day activities of the school district's staff, including reassigning the duties and responsibilities of personnel in a manner that, in the determination of the receiver, best suits the needs of

the school district.

4. Place on extended leave, suspend or terminate for cause the school district's superintendent or chief financial officer, or both. A person terminated pursuant to this paragraph may appeal the receiver's decision to the state board of education if an appeal is filed with the state board within thirty days of receiving notice of the termination.

5. Authorize pupils to transfer from schools operated by the school district to schools operated by another school district that is not currently in receivership.

6. Appoint a chief educational officer who shall possess the powers and duties of a school district superintendent. A chief educational officer who is appointed pursuant to this paragraph shall hold a valid administrative certificate.

7. Appoint a chief fiscal officer who shall possess the powers and duties of the school district's chief school business official and any other duties regarding budgeting, accounting and other financial matters that are assigned to the school district by law.

8. Appoint a competent independent public accountant to audit the accounts of the school district.

9. Reorganize the school district's financial accounts, management and budgetary systems to improve financial responsibility and reduce financial inefficiency within the district.

10. Establish school district fiscal guidelines and a system of internal controls, including internal administrative controls and internal accounting controls, with provisions for internal audits.

11. Cancel or renegotiate any contract, other than contracts of certificated teachers who have been employed by the school district in the capacity of a certificated teacher for more than one year immediately before the date the receiver was appointed, to which the governing board or the school district is a party if the cancellation or renegotiation of the contract will produce needed economies in the operation of the district's schools. The receiver may refuse to reemploy any certificated teacher who has not been employed by the school district for more than the major portion of three consecutive school years as provided in section 15-536.

G. The receiver's power, authority and duties shall be effective on the date of the receiver's appointment by the state board of education. The receiver shall perform the receiver's duties according to the instructions of the state board of education order and according to law. The receiver shall promptly report any violations of law, including a violation of the uniform system of financial records, to the state board of education.

H. On review and approval of the state board of education, the receiver shall take all necessary steps to implement the financial improvement plan and budget utilizing those powers identified in the plan as prescribed in subsection F of this section.

I. The salary and benefits of the receiver and any officers or employees appointed by the receiver shall be paid by the school district. The state board of education shall determine the salary for the receiver and any officers or employees appointed by the receiver based on amounts recommended by the state board.

J. The state board of education shall remove the school district from receivership and dismiss the receiver and dismiss any officer or employee appointed by the receiver thirty days after all of the following have occurred:

1. The auditor general certifies that the school district has been financially solvent for one fiscal year.
2. The auditor general certifies that the school district's financial records are in compliance with the uniform system of financial records and generally accepted accounting principles.
3. The receiver certifies that the school district is no longer engaged in gross mismanagement.
4. The state board of education has determined that the school district is able to pay its debts as those debts become due.

K. The receiver shall submit a quarterly progress report to the state board of education. The first progress report is due on the three month anniversary of the receiver's appointment by the state board.

L. The state board of education shall formally review the receiver's progress every six months. If, based on

the quarterly progress reports, the state board determines that the receiver's progress is insufficient, the state board may remove the current receiver and appoint another receiver for the school district.

M. The state board of education may dismiss the receiver for cause or on a majority vote of no confidence in the receiver of the state board.

N. The school district shall indemnify the receiver and any officer or employee appointed by the receiver who is made or threatened to be made a party to any litigation by reason of their status under this section if the receiver, officer or employee acted in good faith and in a manner that the receiver, officer or employee reasonably believed to be consistent with the best interest of the school district and if the receiver, officer or employee had no reasonable cause to believe that the conduct was unlawful.

O. During the period of time that the school district is in receivership, no member, officer, employee or agent of the school district may enter into any contract or incur any liability on behalf of the school district for any purpose if the amount of the contract or liability exceeds the receiver's authorized financial plan and budget for the school district. The receiver may discipline, including, if warranted, imposing a suspension from duty without pay, removal from office or termination of any school district employee or officer who violates this subsection.

P. This section does not create a private cause of action against the school district or its officers, directors, board members or employees.

Q. The assumption of control of the school district by the receiver shall in no way interfere with the election or reelection of school district governing board members.

R. This section shall not interfere with a school district's ability to declare bankruptcy under federal law.

S. The state board of education shall continue to monitor and offer technical assistance to a school district for two years after its removal from receivership.

T. For the purposes of this section:

1. "Delinquent debt" means debts or liability unpaid by the school district for a period of more than sixty days from the time of notice.
2. "Gross mismanagement" means that the school district's officers or employees committed or engaged in gross incompetence or systemic and egregious mismanagement of the school district's finances or financial records.
3. "Notice" means written notice personally served or delivered by certified mail, return receipt requested.
4. "Receiver" means an individual appointed by the state board of education from the persons recommended by the state board for the purpose of managing a school district placed in receivership by the state board of education.
5. "Receivership" means the state or condition of being under the control of the receiver appointed by the state board of education.
6. "Superintendent" means the chief executive officer of the school district.

Attachment 3

Performance Audit, Union Elementary School District, State of Arizona, Office of the Auditor General, August 2007



**A REPORT
TO THE
ARIZONA LEGISLATURE**

Division of School Audits

Performance Audit

Union Elementary School District

AUGUST • 2007



STATE OF ARIZONA
OFFICE OF THE
**AUDITOR
GENERAL**

Debra K. Davenport
Auditor General

The Auditor General is appointed by the Joint Legislative Audit Committee, a bipartisan committee composed of five senators and five representatives. Her mission is to provide independent and impartial information and specific recommendations to improve the operations of state and local government entities. To this end, she provides financial audits and accounting services to the State and political subdivisions, investigates possible misuse of public monies, and conducts performance audits of school districts, state agencies, and the programs they administer.

The Joint Legislative Audit Committee

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Representative **John Nelson**, Vice Chair

Senator **Carolyn Allen**

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Senator **Pamela Gorman**

Representative **Jack Brown**

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DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

August 10, 2007

Members of the Arizona Legislature

The Honorable Janet Napolitano, Governor

Mr. Peter S. Davis, Receiver
Simon Consulting, LLC

Governing Board
Union Elementary School District

Transmitted herewith is a report of the Auditor General, *A Performance Audit of the Union Elementary School District* conducted pursuant to A.R.S. §41-1279.03. I am also transmitting with this report a copy of the Report Highlights for this audit to provide a quick summary for your convenience.

As outlined in its response, the District agrees with all of the findings and recommendations.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on August 13, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "Debbie Davenport".

Debbie Davenport
Auditor General

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Union Elementary School District pursuant to Arizona Revised Statutes §41-1279.03(A)(9). This performance audit examines six aspects of the District's operations: administration, student transportation, plant operation and maintenance, expenditures of sales taxes received under Proposition 301, the accuracy of district records used to calculate the percentage of dollars spent in the classroom, and the District's English Language Learner (ELL) program.

Administration (see pages 7 through 11)

In fiscal year 2006, the District's \$671 per-pupil administration costs were 21 percent lower than the \$847 per-pupil average of similarly sized districts largely because it employed fewer administrative positions. However, district officials did not control costs, overspending the Maintenance and Operation (M&O) Fund budget in fiscal years 2005 through 2007, including estimated overspending of approximately \$1.2 million in fiscal year 2007. In May 2007, the District was unable to pay its employees, and subsequent emergency legislation required that the District be placed into receivership. While districts are typically given 2 years to recover overspending through reduced budget limits, the legislation putting the District into receivership also gives it 5 years to recover the amounts it overspent. In addition, the District did not always follow required procurement rules. For example, over the course of 2 fiscal years, the District used the services of four special needs transportation vendors without proper procurement and written contracts. During fiscal years 2006 and 2007, the District paid these vendors a combined total of more than \$497,000.

Student transportation (see pages 13 through 19)

In fiscal year 2006, the District spent 41 percent more per pupil on student transportation, and its cost per mile was more than three times the average for similar-sized districts. As a result, the District subsidized its transportation program

with \$434,000 that potentially could otherwise have been spent in the classroom. While it previously contracted for transportation services, in fiscal year 2007, the District began operating the program in-house. This lowered its per-pupil costs by about 15 percent; however, the District continued to subsidize the program by more than \$482,000. Outsourced special needs transportation was the largest component of the District's fiscal year 2007 transportation costs. The District paid two vendors more than \$257,000 to transport its special needs students to programs outside of the District despite not having written contracts with either vendor. Without written contracts, the District could not ensure that vendor billings were appropriate, and it also could not ensure that the vendor met the State's minimum safety standards and that the District was properly protected from liability. The District's current high transportation costs, together with overspending its M&O budget, highlight the need for monitoring its transportation program, including developing and monitoring performance measures. The District also needs to implement required bus preventive maintenance and random drug and alcohol testing for its drivers.

Plant operation and maintenance (see pages 21 through 26)

In fiscal year 2006, the District spent 41 percent more per square foot on plant operation and maintenance costs than comparable districts. The District's plant operation costs accounted for 13.4 percent of its total current expenditures, which is slightly higher than the comparison districts' average and over 2 percent higher than the state-wide average. Even though the District employed fewer plant-related positions than the comparable districts, it had high overtime costs, which inflated its salary and benefit costs. Further, the District had high water and energy costs and lacked conservation plans to help control these costs. Telephone costs were also high, largely because the District uses five T-1 lines to handle its phone and data needs, while comparable districts used only one or two lines. In fiscal year 2007, the District's per-square-foot plant costs increased by approximately 6 percent, largely due to hiring additional staff.

Proposition 301 monies (see pages 27 through 30)

In November 2000, voters passed Proposition 301, which increased the state-wide sales tax to provide additional resources for education purposes. The District's plan for spending its Proposition 301 monies was incomplete in that it did not describe how base pay and menu option monies were to be allocated. However, the District spent its fiscal year 2006 Proposition 301 monies for purposes authorized under statute. On average, each teacher and librarian received base pay increases of \$939

and performance pay of \$1,532. Menu option monies paid to eligible employees who participated in AIMS intervention activities averaged \$1,194 each.

Classroom dollars (see pages 31 through 34)

Statute requires the Auditor General to determine the percentage of every dollar Arizona school districts spend in the classroom. Therefore, auditors reviewed the District's recording of classroom and other expenditures to determine their accuracy. After correction for classification errors, the District's fiscal year 2006 classroom dollar percentage increased from 50.1 percent to 50.3 percent, which is eight points below the state average of 58.3 percent for the same fiscal year.

In addition, the District spent \$6,256 per pupil, which was \$916 lower than the comparable districts averaged and almost \$600 lower than the state average of \$6,833. The District spent fewer operating dollars than the comparable districts because it received less federal and state program monies and transportation revenues per pupil. Also, the District spent comparatively more per pupil on food service because it had a high percentage (68 percent) of students who were eligible for free or reduced price lunches, and it served more meals than the comparable districts. However, the District spent less on student support services and instruction support services than the state averages.

English Language Learner programs, costs, and funding (see pages 35 through 39)

English Language Learners are students whose native language is not English and who are not currently able to perform ordinary classroom work in English. During fiscal year 2006, the District's ELL program served 253 students and primarily consisted of language instructional software and bilingual instructional aides to assist students during language arts classes. In fiscal year 2007, the District served 401 ELL students at a cost of approximately \$128,900, and it received \$132,000 in funding to serve its ELL students, including additional state aid known as ELL B-weight monies, and federal Title III monies. Statute requires the ELL Task Force to adopt models for districts to provide 4 hours of English language acquisition for first-year ELL students. Currently, the District's fiscal year 2007 ELL program provided only 45 minutes of language acquisition tutoring for students at the lowest levels of English proficiency. Students who were more proficient were placed in mainstream classes and were assisted by bilingual instructional aides during language arts classes.

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concluded ♦

INTRODUCTION & BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Union Elementary School District pursuant to A.R.S. §41-1279.03.A.9. This performance audit examines six aspects of the District's operations: administration, student transportation, plant operation and maintenance, expenditures of sales taxes received under Proposition 301, the accuracy of district records used to calculate the percentage of dollars spent in the classroom, and the District's English Language Learner program.

The Union Elementary School District, located in southwest Phoenix, served 1,062 students in pre-kindergarten through eighth grade in fiscal year 2006. During that fiscal year, the District had two schools, one elementary school serving students in pre-kindergarten through fourth grade, and one middle school serving students in fifth through eighth grade.

A 3-member board governs the District, and a superintendent and a business manager manage it. In fiscal year 2006, the District employed 2 principals, and 1 planning principal for a third school that is scheduled to open in August 2007. In addition, the District had approximately 49 certified teachers, 5 instructional aides, and 32 other employees, such as administrative staff, bus drivers, food service workers, and custodians.

The District offers:

- Technology-based learning
- Life Skills program
- Cultural arts education
- On Track program for at-risk students
- Weekly after school tutoring
- Advanced and gifted courses
- English as a Second Language Program
- Accelerated Reader
- Spalding Phonics
- McGraw-Hill Reading
- Character Education
- After-school clubs

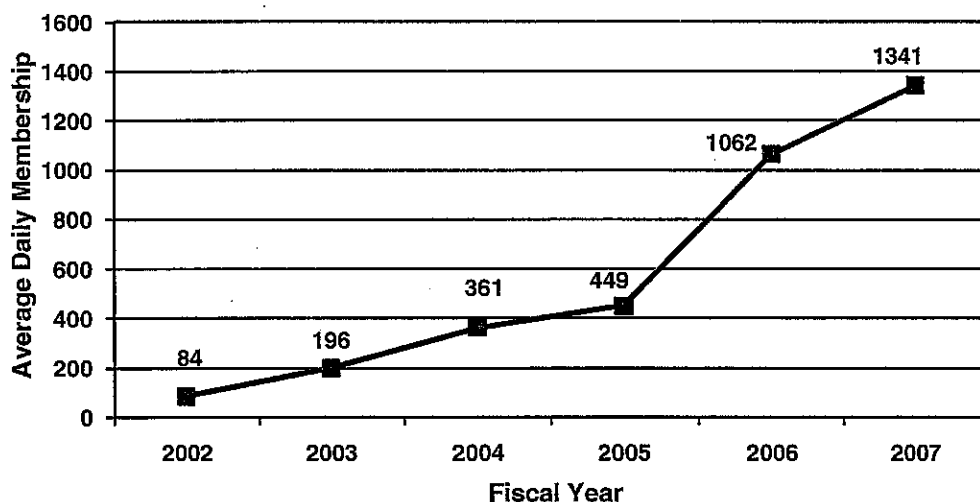
District programs and challenges

The District offers a wide range of instructional and extracurricular programs (see text box), such as after-school tutoring, clubs, advanced and gifted courses, and technology-based learning.

For the 2005-2006 school year, the elementary school was labeled as "performing" and the middle school was labeled as "failing to meet academic standards" through the Arizona LEARNS program. Additionally, the elementary school met "Adequate Yearly Progress" for the federal No Child Left Behind Act, while the middle school did not.

The District is located in what has been a high population growth area. As shown in Figure 1, the number of students attending the District's schools increased from approximately 84 students in fiscal year 2002 to 1,062 in fiscal year 2006, an increase of almost 1,200 percent. In fiscal year 2007, the District grew by more than 25 percent to more than 1,340 students. To serve the increasing number of students, the District opened its second school in August 2005 and is currently building a third school, which is scheduled to open in August 2007. Further, the District is currently planning to build a fourth school, which it plans to open in 2009.

Figure 1: District Growth in Attending Students
Fiscal Years 2002 through 2007
(Unaudited)



Source: Auditor General staff analysis of average daily membership information obtained from the Arizona Department of Education.

The high growth rate has led to challenges for the District:

- Keeping expenditures within allowable limits.** During fiscal years 2005 and 2006, the District spent more monies than allowed by state law. In fiscal year 2006, the year audited, the District overspent its Maintenance and Operation Fund (M&O) budget, which totaled \$4,550,489, by almost \$969,000. These monies are used to pay for the District's day-to-day operating costs. In addition, the District's fiscal year 2006 expenditures exceeded its revenues by almost \$165,000. During fiscal year 2005, the District also overspent its M&O budget, but by a much smaller amount—approximately \$7,000. Because of its fiscal year 2007 overspending, the District was unable to pay its employees in late May 2007, and the Legislature authorized a receiver to be appointed in June 2007. The State Board of Education appointed the receiver who is to provide the Board with a full review and investigation of the District's financial affairs. The receiver

is also to provide a financial improvement plan and a budget that details how the District will eliminate any financial mismanagement and achieve solvency. The adjacent text box lists some of the key statutory powers and duties a receiver has. Chapter one provides further information about the District's overspending.

Further, district officials cite the following challenges:

- **Obtaining enough teachers.** To maintain reasonable class sizes, which it defined as 27 students per teacher, the District employed approximately 60 substitute teachers, including 24 long-term substitutes, in fiscal year 2006. This was less of an issue in fiscal year 2007, when the District employed 15 substitute teachers, none of whom were long-term.
- **Meeting growing physical plant needs.** Another challenge the District identified is capital needs, such as furniture, playground equipment, and constructing new buildings on existing campuses, as bonds are its only funding source to meet these needs.¹
- **Meeting students' various needs.** In addition to the effects of rapid growth, the District is located in an area where, based on Census Bureau data, 44 percent of the population live at or below federal poverty guidelines. According to the District, this has resulted in increased costs related to student healthcare, social services, and special educational needs.

Among others, a receiver's powers and duties include the following:

- Override any decisions of the school district's governing board and superintendent;
- Supervise the day-to-day activities of the district's staff;
- Appoint an independent public accountant to audit the district's accounts;
- Reorganize the district's financial accounts, management, and budgetary system;
- Establish school district fiscal guidelines and a system of internal controls; and
- Cancel or renegotiate contracts, with the exception of contracts with teachers who have been with the district for more than 1 year.

Source: A.R.S. §15-103(F).

Scope and methodology

Based in part on their effect on classroom dollars, as reported in the Auditor General's annual reports, *Arizona Public School Districts' Dollars Spent in the Classroom (Classroom Dollars report)*, this audit focused on three operational areas: administration, student transportation, and plant operation and maintenance. Further, because of the underlying law initiating these performance audits, auditors also reviewed the District's use of Proposition 301 sales tax monies and how accurately it accounted for dollars spent in the classroom. In addition, because of requirements of A.R.S. §15-756.02, auditors reviewed the District's English Language Learners (ELL) program to review its compliance with program and accounting requirements.

In conducting this audit, auditors used a variety of methods, including examining various records, such as available fiscal year 2006 summary accounting data for all districts and the Union Elementary School District's fiscal years 2006 and 2007

¹ The School Facilities Board does not provide additional funding to districts whose square footage meets the state minimum standards based on number of students.

detailed accounting data, contracts, and other district documents; reviewing district policies, procedures, and related internal controls; reviewing applicable statutes; and interviewing district administrators and staff. Additionally:

- To assess the District's administrative costs' accuracy, auditors evaluated internal controls related to expenditure processing and tested the accuracy of fiscal year 2006 expenditures. Auditors also reviewed personnel files and interviewed district and school administrators about their duties, salaries, and related costs, and compared these to similar districts'.
- To assess whether the District's transportation program was managed appropriately and functioned efficiently, auditors reviewed and evaluated required transportation reports, driver files, bus maintenance and safety records, and bus routing. Auditors also reviewed fiscal year 2006 transportation costs and compared them to similar districts'.
- To assess whether the District's plant operation and maintenance function was managed appropriately and functioned efficiently, auditors reviewed and evaluated fiscal year 2006 plant operation and maintenance costs and district building space, and compared these costs and capacities to similar districts'.
- To assess whether the District was in compliance with Proposition 301's Classroom Site Fund requirements, auditors reviewed fiscal year 2006 expenditures to determine whether they were appropriate, properly accounted for, and remained within statutory limits. Auditors also reviewed the District's performance pay plan and analyzed how performance pay was being distributed.
- To assess the accuracy of the District's classroom dollars and other expenditures, auditors reviewed accounting records to determine whether costs were properly recorded.
- To assess the District's compliance with ELL program and accounting requirements, auditors reviewed and evaluated the District's testing records for students who had a primary home language other than English, interviewed district personnel about the District's ELL programs, and reviewed and evaluated the District's ELL-related revenues and costs.
- Because district operations changed significantly between fiscal years 2006 and 2007, auditors expanded the analysis of cost data to include fiscal year 2007. At the time the audit was conducted, fiscal year 2007 was not complete. Auditors used actual costs from the District's preliminary accounting records through July 2007. However, fiscal year 2007 costs were not similarly developed for the comparison districts as their records were not examined and any estimates would have been more susceptible to error.

The audit was conducted in accordance with government auditing standards.

Following are the main conclusions related to the audit objectives:

- **Administration**—The District's fiscal year 2006 per-pupil administration costs of \$671 were 21 percent lower than the comparable districts' average of \$847 because it had fewer administrative staff. However, the District's administration overspent the Maintenance and Operation Fund budget, and in June 2007, the Legislature ordered the District placed in receivership. To achieve solvency, district officials need to take steps to control costs in all areas, including administration.
- **Student transportation**—The District's transportation costs for fiscal years 2006 and 2007 are substantially above the amount the District receives from the State to operate the program. The District's small size (approximately 6 square miles) means that state reimbursement, which is made on a per-mile basis, will likely continue to be much lower than costs. The District needs to carefully evaluate spending, but it currently has no performance measures for doing so. The District also needs to develop a documented preventive maintenance plan for its buses, conduct random drug and alcohol testing for its bus drivers as required by state standards, and take other steps to ensure billings for service are correct.
- **Plant operation and maintenance**—The District's fiscal year 2006 per-square-foot plant cost of \$6.95 was 41 percent higher than the comparable districts averaged. Plant costs were high in all cost categories, but appear high primarily because of the District's failure to control plant employees' overtime hours and lack of energy and water conservation plans. Start-up costs, such as electricity and telephone service deposits associated with the District's second school, also contributed to high plant costs. Fiscal year 2007 costs increased by \$0.43 per square foot, mostly due to the addition of three full-time equivalent positions and continued failure to control overtime costs and energy and water usage.
- **Proposition 301 monies**—The District did not have a comprehensive board-approved plan for spending Classroom Site Fund monies during fiscal year 2006, but its expenditures were for purposes authorized under statute, and it maintained appropriate documentation to support the expenditures.
- **Classroom dollars**—The District's classroom dollar percentage for fiscal year 2006 was 50.3 percent, which is 8 percentage points below the state average of 58.3 percent. This low percentage heightens the importance of carefully examining costs in all noninstructional areas.
- **ELL**—The District's fiscal year 2007 Structured English Immersion (SEI) program consisted of 45-minute language tutoring sessions. By statute, the ELL Task

Force models will require 4 hours of daily English language acquisition instruction for first-year ELL students. During fiscal year 2007, the District received approximately \$132,000 in state and federal monies to fund its programs, and it spent almost \$129,000, primarily on salaries and benefits for three bilingual instructional aides.

The Auditor General and her staff express their appreciation to the Union Elementary School District's board members, superintendent, and staff for their cooperation and assistance throughout the audit.

CHAPTER 1

Administration

Union Elementary School District's fiscal year 2006 and 2007 administrative costs were lower than those for other districts of similar size, largely because of a lower administrative staffing level. However, spending in other areas was not well controlled, and district officials overspent the Maintenance and Operation Fund budget in 3 successive years. In June 2007, the Legislature directed that the District be placed in receivership. For the District to return to solvency, district officials will need to take steps to control costs in all noninstructional areas, including administration. An important step in controlling costs will be to follow sound procurement practices.

What are administrative costs?

Administrative costs are those associated with directing and managing a school district's responsibilities at both the school and district level. At the school level, administrative costs are primarily associated with the principal's office. At the district level, administrative costs are primarily associated with the governing board, superintendent's office, business office, and central support services, such as planning, research, data processing, etc. For purposes of this report, only current administrative costs, such as salaries, benefits, supplies, and purchased services, were considered.¹

Administrative costs are monies spent for the following items and activities:

- General administrative expenses are associated with governing board's and superintendent's offices, such as elections, staff relations, and secretarial, legal, audit, and other services; the superintendent's salary, benefits, and office expenses; community, state, and federal relations; and lobbying.
- School administration expenses such as salaries and benefits for school principals and assistants who supervise school operations, coordinate activities, evaluate staff, etc., and for clerical support staff.
- Business support services such as budgeting and payroll; purchasing, warehousing, and distributing equipment, furniture, and supplies; and printing and publishing; and
- Central support services such as planning, research, development, and evaluation services; informing students, staff, and the general public about educational and administrative issues; recruiting, placing, and training personnel; and data processing.

Source: Auditor General staff analysis of the USFR Chart of Accounts.

¹ Current expenditures are those incurred for the District's day-to-day operation. They exclude costs associated with repaying debt, capital outlay (such as purchasing land, buildings, and equipment), and programs such as adult education and community service that are outside the scope of preschool through grade 12 education.

Administrative costs per pupil were lower than comparable districts'

Using average daily membership counts and number of schools information obtained from the Arizona Department of Education, auditors selected districts that had a similar number of students and schools as Union Elementary School District. As noted in the Auditor General's November 2002 special study, *Factors Affecting School Districts' Administrative Costs*, district type does not appear to be a significant factor influencing per-pupil administrative costs, and therefore district type was not a primary factor in selecting comparable districts. The following tables use fiscal year 2006 cost information for the comparable districts because it is the most recent year for which all comparable districts' cost data was available. However, due to significant changes in the District's operations, both fiscal years 2006 and 2007 cost data was analyzed for Union ESD.

As shown in Table 1, in fiscal year 2006, the District spent \$671 per pupil on administrative costs, which is 21 percent lower than the \$847 per pupil averaged by comparable districts. However, medium-sized districts such as Union and the comparable districts, with student populations between 600 and 4,999, tend to have higher administration costs than larger districts because they cannot gain the economies of scale available to larger districts. On average, medium-sized districts state-wide spent \$873 per pupil on administration costs, while large districts with 5,000 to 19,999 students had average administration costs of only \$592 per pupil.

Table 1 Total and Per-Pupil Administrative Cost Comparison
Fiscal Year 2006 and Union ESD Estimated Costs
Fiscal Year 2007
(Unaudited)

District Name	Total Administrative Costs	Number of Students	Administrative Cost Per Pupil
Williams USD	\$835,048	710	\$1,176
Morenci USD	832,682	968	860
Benson USD	817,052	991	824
Nadaburg ESD	570,266	694	822
Union ESD	712,372	1,062	671
Toltec ESD	641,465	1,156	555
Fiscal year 2006 average of the comparable districts	\$739,303	904	\$ 847
Fiscal year state-wide average for medium-sized districts			\$ 873
Fiscal year 2007 Union ESD estimated administration costs	\$935,514	1,341	\$ 698

Source: Auditor General staff analysis of district-reported fiscal year 2006 accounting data; district-reported preliminary fiscal year 2007 accounting data as of July 31, 2007 and average daily membership information from the Arizona Department of Education.

The District employed fewer administrative positions than the comparable districts—Administrative salary and benefit costs were \$236 per pupil lower than the comparable districts' average because the District employed fewer administrative positions. As shown in Table 2, the District employed nine full-time equivalent (FTE) administrative positions, which were five fewer than the comparable districts' average in fiscal year 2006.

In fiscal year 2006, the District was still adjusting to the effects of growth and employed a small district-level administrative staff consisting of the superintendent, business manager, an office manager, a 0.75 FTE technology coordinator, and approximately 3.5 clerical FTEs. At the school level, the District employed 2 principal FTEs. During the first part of the year, the District's superintendent also served as a part-time principal for the middle school, which serves grades five through eight. In addition, the District did not employ any assistant principals, while the comparable districts averaged 1.3 assistant principals. Further, the District employed fewer clerical and computer-related positions.

Table 2: District Staffing Level Comparison Fiscal Year 2006 and Union ESD Estimated Administrative Staff Fiscal Year 2007 (Unaudited)

District Name	Number of	
	Administrative Staff ¹	Students Per Administrative Staff
Union ESD	9	119
Nadaburg ESD	8	87
Toltec ESD	13	86
Morenci USD	16	62
Benson USD	17	57
Williams USD	17	42
Fiscal year 2006 average of the comparable districts	14	67
Fiscal year 2007 Union ESD estimated Administrative staff	14	96

¹ The number of administrative staff shown is based on full-time equivalents (FTE). For example, an employee working half-time in an administrative position would be counted as 0.5 FTE.

Source: Auditor General staff analysis of fiscal year 2006 and fiscal year 2007 average daily membership counts; fiscal year 2006 School District Employee Report from the Arizona Department of Education, and fiscal year 2007 Union ESD administrative staff contracts.

Failure to control costs leads to overspending—Although administrative costs were reasonable, with high costs in many other areas, district officials overspent the Maintenance and Operation (M&O) Fund budgets in fiscal years 2005, 2006, and 2007. In late May 2007, the District reached a point where it could not pay its employees. Subsequently, the Legislature passed emergency legislation requiring that the District be immediately placed in receivership. To return the District to solvency, officials need to take steps to control costs in all areas, including administration.

District's M&O Budget Overspending	
Fiscal Year 2005	\$ 6,998
Fiscal Year 2006	968,535
Fiscal Year 2007 Estimate	1,178,281

As other chapters in this report show, in fiscal year 2006, the District had high costs in several noninstructional areas. For example, the District spent about 40 percent

more than the comparable districts averaged in each of the following areas: student transportation, plant operation and maintenance, and food service.

Although final results were not yet available, district officials continued overspending in fiscal year 2007. Overall, as Table 3 shows, the District's M&O

Fund expenditures are estimated to exceed budgeted amounts by approximately \$1.2 million in fiscal year 2007. For example, as shown in Table 3, while the District is estimated to spend about \$947,000 on plant operation and maintenance costs for fiscal year 2007, it had budgeted only about \$562,000 in this area.

The District's inability to keep expenditures within its budget limits emphasizes the need for it to take stringent measures to control costs in all areas. When a district overspends its budget, the Arizona Department of Education is required to reduce its budget limits for the next 2 fiscal years to recover the overspending.

**Table 3: Union ESD Budgeted vs. Estimated Actual Maintenance and Operation Fund Expenditures
Fiscal Year 2007
(Unaudited)**

Function	Budgeted Expenditures	Projected Expenditures	Projected Amount Over Budget
Instruction	\$4,169,031	\$4,419,477	\$ 250,446
Administration	853,019	935,514	82,495
Plant operation and maintenance	562,278	947,049	384,771
Food service	0	85,000	85,000
Transportation	392,520	719,779	327,259
Student support	363,994	394,074	30,080
Instructional support	188,392	206,622	18,230
Total	\$6,529,234	\$7,707,515	\$1,178,281

Source: Auditor General staff analysis of preliminary district-reported fiscal year 2007 accounting data as of July 31, 2007.

The legislation requiring that a receiver be appointed also gives the District 5 fiscal years rather than 2 to reduce its spending by the amounts it has overspent. Even with the extended repayment period, the required repayments decrease the District's available budget limits and increase the probability of overspending future budgets if significant changes are not made to the way that district officials control costs.

Further adding to its inability to remain within statutory budget limits, the District was also found to be out of compliance with requirements of the USFR, including failure to follow required procurement rules, errors in student attendance reporting, and errors in accounting for payroll, student activities, and other expenditures. As a result of the continued noncompliance with the USFR, the State Board of Education began withholding 5 percent of the District's budget in March 2007 and will continue to do so until the deficiencies are corrected. The District will receive these withheld monies when the deficiencies have been corrected.

Improved procurement practices needed to help control costs—The District has not always ensured that it obtained the best prices for the goods and services it procured. Competitive procurement procedures are required to provide assurance that public entities are getting goods and services for the best possible

prices. In 9 of the 19 procurements reviewed, auditors found that the District did not follow required procurement rules detailed in the Uniform System of Financial Records (USFR) for school districts. Specifically:

- In fiscal year 2006, the District used two special needs transportation vendors, paying them a total of \$240,557. However, the District did not procure these services through the required request for proposal (RFP) process and did not establish written contracts for their services.
- In fiscal year 2007, the District used two new special needs transportation vendors, paying them more than \$257,000 during the fiscal year. However, as with the fiscal year 2006 vendors, the District did not go through the procurement process and did not require written contracts. In April 2007, 8 months after it began using these vendors' services, the District issued an RFP and awarded a contract to one of the two vendors for the remainder of fiscal year 2007 and fiscal year 2008. Chapter 2 provides more information on the special needs transportation vendors and their effects on the District's transportation costs.
- The District failed to document the reasons for choosing its fiscal year 2006 regular education transportation vendor rather than the vendor that submitted the lowest bid. Specifically, the awarded vendor's bid for one bus for 1 day ranged from \$221 to \$238 over a 5-year period, while the other vendor's rate remained at \$220 per bus per day for the 5-year period. The District paid the successful transportation vendor more than \$316,000.
- In four instances in which the District made purchases through purchasing cooperatives or contracts of other school districts, it failed to conduct required due-diligence activities. Due-diligence activities, which include reviewing the procurement documentation from the cooperative or other school district that awarded the contract, are to ensure that the process conformed to the USFR purchasing rules that the District is required to follow.

Competitive procurement procedures provide assurance that public entities are getting the needed goods and services for the best possible prices.

Recommendations

1. The District's administration should take any necessary steps to control costs in all noninstructional areas, including administration, to avoid overspending its M&O Fund budget.
2. The District should ensure that it follows competitive purchasing rules when purchasing goods and services.

CHAPTER 2

Student transportation

The District subsidized its student transportation program by approximately \$434,000 in fiscal year 2006 and \$482,000 in fiscal year 2007. In fiscal year 2006, the District contracted the majority of its transportation program. While costs were 41 percent higher than the comparable districts', the vendor's quality of service was poor. For fiscal year 2007, the District moved most of its transportation program in-house, reducing costs somewhat. However, its compact size (approximately 6 square miles) makes it unlikely that state reimbursement, which is given on a per-mile basis, will be sufficient to match the current level of expenditures. Consequently, the District needs to closely evaluate program operations for efficiency and economy. The District has not established performance measures or cost analyses that would help with this effort. The District also needs to take other steps to strengthen the program, including establishing better controls over spending for special needs transportation and adhering to state standards for a documented preventive maintenance program and for random drug and alcohol testing for drivers.

Background

In fiscal year 2006, the District operated its student transportation program primarily through a transportation vendor it had been using since fiscal year 2003. At that time, the District used the vendor to provide only a few routes, but due to rapid growth in the student population, the vendor was providing eight routes by fiscal year 2006. In addition, the District used its own employees and six buses to provide an additional four routes. The District also paid two vendors to provide special needs transportation services. Using monies from a voter-approved bond initiative, the District purchased six additional buses and in fiscal year 2007 began operating its own transportation program. While the District provides some special needs transportation, it also pays two new vendors to transport special needs students served by programs outside of the District.

Transportation Facts for Fiscal Year 2006

Riders*	n/a
Bus drivers	6
Regular routes	12
Special-needs routes	23
Average daily route miles	487
Total route miles	87,724
Total noncapital expenditures	\$673,997

* Not available because the District's records were insufficient to validate its reported number of riders.

Student transportation costs were 41 percent higher than comparable districts'

In fiscal year 2006, the District spent 10.2 percent of its current dollars on student transportation, 3.9 percentage points higher than the comparable districts averaged. As Table 4 shows, the District's \$635 per-student cost was 41 percent higher than the

comparable districts' average of \$451. On a per-mile basis, the difference between the District's costs and the costs in comparable districts was even starker—\$7.68 per mile versus an average of \$2.50 per mile for the comparable districts. This higher cost primarily related to the cost of vendor-provided transportation services. Because of these higher expenditures, the District subsidized its transportation program with about \$434,000 that could have potentially

Table 4: Students Transported, Route Mileage, and Costs
Fiscal Year 2006
(Unaudited)

District Name	Average Daily Membership ¹	Total Route Miles	Total Noncapital Expenditures	Cost Per Student	Cost Per Mile
Nadaburg ESD	694	242,448	\$619,992	\$893	\$2.56
Union ESD	1,062	87,724	673,997	635	7.68
Williams USD	710	164,000	295,937	417	1.80
Benson USD	991	164,908	400,374	404	2.43
Toltec ESD	1,156	148,733	329,822	285	2.22
Morenci USD	968	70,628	246,852	255	3.50
Average of the comparable districts	904	158,143	\$378,595	\$451	\$2.50

¹ Records were not sufficient to validate Union ESD's reported number of riders; therefore, average daily membership is used for analysis.

Source: Auditor General staff analysis of district-reported fiscal year 2006 accounting data, and district mileage reports and average daily membership information provided by the Arizona Department of Education.

been spent in the classroom. In fiscal year 2006, the District received state transportation aid totaling approximately \$240,000, but spent almost \$674,000 to operate the program.

Fiscal year 2006 vendor-provided services were high cost and poor quality—Although the District's per-pupil transportation costs were significantly higher than the comparable districts' average, the service it received from its vendor was often poor. In fiscal years 2004 and 2005, when the vendor provided fewer routes, the District was satisfied with its services. However, in fiscal year 2006, with the increased number of routes, the District experienced numerous problems with the vendor. According to the District, vendor buses often arrived late for scheduled routes, and on several occasions, never arrived at all. In these instances, the District would use its own buses and drivers to pick up the students, which resulted in students arriving late to school or home.

Fiscal year 2007 costs decreased, but were still high—To operate its own transportation service, the District purchased six more buses, added six more bus drivers, and hired a transportation manager to oversee the program. These changes decreased per-pupil costs to \$537, about 15 percent lower than fiscal year 2006 costs. Despite the lower per-pupil costs, the District was still spending about \$720,000 in transportation operating costs, about three times more than the \$237,700 in state transportation aid.

Compact size requires efficient operations—It may be unlikely the District can generate enough transportation revenue to cover the related operating costs. The state transportation funding formula is largely based on route miles driven, and the District's compact geographic size results in fewer route miles. Specifically, the District covers approximately 6 square miles, while the comparable districts' averaged 432 square miles and ranged from 94 to 1000 square miles. As a result, the District drives fewer miles and receives less transportation funding than districts that serve a similar number of students. The comparable districts reported driving 70,419 more miles on average than the District in fiscal year 2006, as shown in Table 4, and they received an average of \$310,000 more in transportation funding. Because of its compact size, the District must manage its transportation operations efficiently to minimize its transportation subsidy.

Outsourced special needs transportation was the largest component of fiscal year 2007 costs—As shown in Table 5 (see page 16), when analyzed by category, purchased services was the largest component of fiscal year 2007 transportation costs. These purchased service costs are primarily associated with the District's two special needs transportation vendors. During fiscal year 2007, the District lacked sufficient equipment and personnel to provide all special needs transportation, so it used the two vendors to transport approximately 30 special needs students, all of whom were transported to programs outside of the District, which increases costs. But other management factors also increased the District's special needs transportation costs. Specifically:

- District officials did not properly procure the services of its 2 fiscal year 2007 special needs transportation vendors. According to the District, the parents of some special needs students were not happy with the prior year's transportation vendors. Therefore, the parents of one special needs student formed a special needs transportation company to provide services for the District. In addition, a former substitute teacher, employed by the District in fiscal year 2006, formed a second special needs transportation company to serve the District. The District began using these new special needs transportation vendors without going through the procurement process. As a result, the District did not ensure that it was obtaining special needs transportation services at the best possible prices. Further, one of these two vendors is not in good standing with the Arizona Corporation Commission.

Table 5: Comparison of Per-Pupil Transportation Costs by Category
Fiscal Year 2006 and Union ESD Estimated Costs
Fiscal Year 2007
(Unaudited)

District Name	Salaries	Benefits	Purchased Services	Supplies and Other	Total
Nadaburg ESD	\$471	\$146	\$56	\$221	\$894
Union ESD	49	17	548	21	635
Williams USD	240	58	26	93	417
Benson USD	221	61	25	97	404
Toltec ESD			252	33	285
Morenci USD	102	21	30	102	255
Average of the comparable districts	\$207	\$57	\$78	\$109	\$451
Fiscal year 2007 Union ESD estimated costs	\$200	\$71	\$206	\$60	\$537

Source: Auditor General staff analysis of district-reported fiscal year 2006 accounting data, district-provided preliminary fiscal year 2007 accounting data and route mileage records, auditor estimates of remaining 2007 route mileage, and district mileage reports and average daily membership information provided by the Arizona Department of Education.

- District officials did not have written contracts with either of these two companies. Without a written contract, district officials put the District at financial risk. They had no basis for determining if vendor billings were appropriate prior to payment. Vendor invoices did not provide enough information for the District to assess whether the billings were even reasonable or based on services actually provided as the invoices simply consisted of the names of the students, the billing period, and amounts for each. During fiscal year 2007, the District paid these two vendors approximately \$257,400.
- Without written contracts, district officials were also not adequately ensuring that its students would be transported by drivers who follow proper safety standards and have been adequately trained and in equipment meeting state and federal safety requirements.
 - **Drivers**—To protect student safety, the Arizona Department of Public Safety's *Minimum Requirements for School Buses and School Bus Drivers (Minimum Standards)* requires that school bus drivers possess a commercial driver's license, pass a fingerprint background check, be annually and randomly tested for drug and alcohol use, pass annual medical examinations, and participate in driving trainings, as well as CPR and first aid trainings. However, the District did not require the vendors to provide proof that their drivers had met these safety requirements.
 - **Vans**—The two vendors transported students using vans with capacities ranging from 7 to 15 passengers. Because these vans do not meet the

Minimum Standard's definition of a school bus, they are not required to receive annual safety inspections from the Department of Public Safety and meet safety requirements. While the State does not regulate these vans, federal safety standards impose on manufacturers and dealers a number of requirements for 11- to 16-passenger vans that will be used for transporting students. However, the District did not maintain records showing whether the vendors' vans met appropriate federal and state safety requirements.

Further, transportation vendor contracts typically spell out driver safety and training and vehicle requirements, as well as vendor liability insurance requirements. It does not appear that the District was protected from liability as there was no requirement for the vendors to adequately insure their operations.

Performance measures were not established and monitored

The District's current high costs and low capacity for generating sufficient transportation revenues highlight the need for monitoring its transportation operations. Measures such as cost per mile and cost per rider can help the District identify areas for improvement. However, the District has not established and monitored performance measures for the transportation program. Further, the District did not collect and maintain the data necessary to adequately monitor program operations. For example, although the drivers' daily logs show the number of students transported each day, the District did not summarize these counts by route to monitor its bus capacity utilization and determine if route adjustments were needed. Bus capacity utilization rates, which compare the number of actual riders to the bus capacity, can help identify routes with low ridership that may be combined with other routes, or buses that are overcrowded. To further assist in evaluating route efficiency, the District needs detailed documentation of its bus routes, such as streets, estimated times, and bus stops. The District could not provide auditors with clear and consistent route information for fiscal year 2006. As a result of insufficient data collection, the District is unable to evaluate the efficiency of its program and proactively identify operational issues that may need to be addressed.

Transportation revenue based on inaccurate data

Funding for school district transportation programs is based on the numbers of riders and route miles reported to the Arizona Department of Education (ADE). In reporting

its fiscal year 2006 route miles, the District used monthly mileage summaries provided by its vendors. Auditors compared the odometer readings and number of riders on the drivers' daily logs from the regular education vendor and found that the monthly summaries overstated route mileage by approximately 14,700 miles, or 17 percent. The tables in this report were adjusted to reflect the correct route mileage. The number of eligible riders reported by the District also appeared to be overstated. For example, a review of the vendor's driver logs showed that rider counts for some routes were as high as 105 students for buses with an 84-passenger maximum capacity.¹

If the District made significant errors in reporting the number of eligible riders transported, this could potentially affect its transportation funding by changing its funding rate. However, without reliable rider data, it was not possible to determine what the appropriate revenue amount would have been.

For fiscal year 2007, the District was using its own drivers' daily logs to report mileage and riders. Based on auditors' review of these logs, it appeared that the District was accurately capturing the route mileage driven and the number of riders transported.

Two required student transportation standards were not met

While many of the District's student transportation policies and procedures were consistent with the *Minimum Standards*, it did not meet these standards in two areas. Specifically:

- **Preventive Maintenance**—According to the *Minimum Standards*, districts must be able to demonstrate that their school buses received periodic preventive maintenance services. While many other districts keep a manual or computerized log of the dates each bus receives maintenance and the type of maintenance performed, Union Elementary did not have a documented preventative maintenance program. Although district staff indicated that preventative maintenance work was performed by a nearby school district, that school district was unable to provide documentation that maintenance had been performed in fiscal year 2006. Similarly, the District did not prepare documentation that it was performing preventive maintenance during fiscal year 2007.
- **Random drug and alcohol testing**—The *Minimum Standards* also require districts to conduct drug and alcohol testing both annually for all drivers and randomly throughout the school year. Specifically, 50 percent of all drivers should be randomly tested for drug use and 10 percent should be randomly

¹ Tables in this report were adjusted to reflect the corrections in route mileage. Because of anomalies in the reported number of riders, auditors used the District's average daily membership.

tested for alcohol use. While district officials ensured that each driver received annual drug and alcohol testing, they did not ensure the required testing of randomly selected bus drivers.

Recommendations

1. The District should ensure that it properly procures any contracted transportation services. Further, the District should establish and maintain written contracts with the special needs transportation vendors and require detailed invoices so that it can ensure that it is being correctly billed for the services provided.
2. The District should develop and monitor performance measures such as cost per mile, cost per rider, and bus capacity utilization.
3. The District should ensure that drivers continue to record the miles driven and riders transported, and use this information to accurately report to the ADE.
4. The District should ensure that vehicle preventive maintenance and random drug and alcohol tests for bus drivers are conducted and documented as specified in the *Minimum Standards*.

CHAPTER 3

Plant operation and maintenance

In fiscal year 2006, Union ESD spent 13.4 percent of its total current dollars on plant operation and maintenance costs, slightly more than the 12.5 percent average spent by comparison districts, and 2.2 percentage points more than the 11.2 percent spent by districts across the State. However, the District's \$6.95 per-square-foot plant cost was 41 percent higher than the comparable districts averaged. These higher costs appear to result from the amount of overtime paid to its plant employees, as well as high energy, water, and telephone costs. Although some of these 2006 costs included one-time costs, the District's fiscal year 2007 plant operation and maintenance costs still remain high primarily because it has added additional employees and continues to incur costs related to overtime hours worked.

What are plant operation and maintenance costs?

Salaries, benefits, and other costs for heating and cooling, equipment repair, groundskeeping, and security.

Source: Auditor General staff analysis of the USFR Chart of Accounts.

Background

In August 2006, the District opened a second school to accommodate its increasing student population, which grew from approximately 450 students in fiscal year 2005 to 1,062 students in fiscal year 2006. The new school serves students in grades kindergarten through 5, while the original school serves middle school students in grades 6 through 8. The District's student population continued to grow in fiscal year 2007 to more than 1,340 students. In August 2007, the District will open its third school serving grades kindergarten through 6. The District has plans to build a fourth school, with a predicted opening in 2009.

District's plant costs were higher than comparable districts'

Despite having fewer square feet, as shown in Table 6, the District's \$6.95 per-square-foot plant operation and maintenance costs were 41 percent higher than the comparable districts' average of \$4.93, and 21 percent higher than the average of all medium-size school districts in the State.

Table 6: Plant Costs and Square Footage Comparison
Fiscal Year 2006
(Unaudited)

District	Plant Costs				
	Total	Per Student	Per Square Foot	Total Gross Square Footage	Square Footage Per Student
Union ESD	\$891,026	\$839	\$6.95	128,277	121
Nadaburg ESD	614,771	886	6.09	100,941	145
Benson USD	986,288	995	5.33	185,089	187
Williams USD	723,836	1,019	5.00	144,634	204
Toltec ESD	767,319	664	4.79	160,312	139
Morenci USD	894,967	925	3.46	258,418	267
Average of the comparable districts	\$797,436	\$898	\$4.93	169,879	188
State-wide average of medium-sized school districts		\$948	\$5.76		

Source: Auditor General's staff analysis of district-reported fiscal year 2006 accounting data and average daily membership information obtained from the Arizona Department of Education, and fiscal year 2006 gross square footage information obtained from the Arizona School Facilities Board.

Higher salary and benefit costs due to overtime—The District's 128,277 square footage was approximately 24 percent less than the comparable districts averaged. While the District employed 9 plant-related full-time equivalent positions, one less than the comparable districts averaged, its employees maintained 9 percent less square footage per employee. Further, district employees work overtime on a regular basis. As a result, the District's \$1.99 per square foot salary costs were 21 percent higher than the comparable districts' average, and its \$0.64 per square foot benefit costs were 33 percent higher, as shown in Table 7 (see page 23). The District's higher plant-related payroll costs related primarily to the amount of overtime worked by its plant employees, as overtime pay accounted for \$0.29 per square foot. Specifically, during fiscal year 2006, the 16 individual employees who make up these 9 FTEs worked a total of 1,878 hours of overtime,

**Table 7: Comparison of Per-Square-Foot Costs by Category
Fiscal Year 2006 and Union ESD Estimated Costs
Fiscal Year 2007
(Unaudited)**

District Name	Salaries	Benefits	Purchased Services	Supplies and Other	Total
Union ESD	\$1.99	\$0.64	\$2.06	\$2.26	\$6.95
Nadaburg ESD	2.17	0.69	1.07	2.16	6.09
Benson USD	1.69	0.34	1.64	1.66	5.33
Williams USD	1.80	0.48	1.22	1.50	5.00
Toltec ESD	1.32	0.49	1.26	1.72	4.79
Morenci USD	1.28	0.39	0.69	1.10	3.46
Average of the comparable districts	\$1.64	\$0.48	\$1.18	\$1.63	\$4.93
Fiscal year 2007 Union ESD estimated costs	\$2.70	\$0.98	\$1.72	\$1.98	\$7.38

Source: Auditor General staff analysis of district-reported fiscal year 2006 accounting data, district-provided preliminary fiscal year 2007 accounting data, and gross square footage information obtained from the Arizona School Facilities Board and the districts.

paid at one and a-half times each employee's normal hourly rate, which equated to \$36,700. One maintenance worker earned approximately \$11,600 in overtime pay during fiscal year 2006, which increased his annual pay for the year by 35 percent, to more than \$44,400. According to district officials, during that fiscal year, they did not enforce a policy to limit overtime hours worked. Further, some plant employees earned overtime by working as school bus drivers in addition to their regular work hours. However, these costs were not classified as transportation costs, and it is not feasible to now estimate the amount of misclassified salary and benefits.

Higher purchased service costs—As shown in Table 7, the District's \$2.06 per square foot purchased service costs were 75 percent higher than the comparable districts' average of \$1.18. Purchased service costs were high for several reasons. Specifically:

- **Custodial services**—During fiscal year 2006, the District paid about \$40,000 for contracted custodial services for about 4 months, a cost of \$0.31 per square foot. The District did not follow proper procurement procedures when contracting with the custodial services vendor and then was not satisfied with the services provided. Therefore, the District severed its contract with the vendor and decided to perform custodial services in-house. None of the comparable districts contracted for custodial services.
- **Water and sewage**—The District's \$0.27 per square foot water costs were 35 percent higher than the comparable districts' average. While the District does not have a formal water conservation plan, it does make some efforts to

conserve water. The elementary school has desert landscaping, but its fields are watered using a sprinkler system. To conserve, the District does not operate the sprinkler system during the winter. The middle school's fields are watered using less expensive flood irrigation. Despite these efforts, the District's water usage has increased. For example, the middle school showed increases of more than 600 gallons per day during October 2005 compared to October 2004, although the number of students at that school remained approximately the same.

- **Telephone costs**—The District's \$0.52 per square foot telephone costs were 476 percent higher than the comparable districts averaged. The high telephone costs were primarily due to the fact that the District chose to have five T-1 lines to handle its phone and data needs. According to the District, the five T-1 lines are necessary because its teachers use technology, such as the Internet, while teaching. By contrast, the comparable districts that responded to the survey each operate using one or two T-1 lines.¹

The District's telephone costs are also higher because it placed phones and phone lines in each classroom, while the comparable districts typically had phones only in district offices, or if phones were in the classrooms, they were accessed through a central switchboard rather than individual lines. Further, although the District states that several phone and data lines are needed for instruction purposes, it did not allocate any of its telephone costs to the classroom, which could have lowered its plant-related telephone costs. Finally, the costs of establishing service for the phone and data lines for the new school contributed to the District's higher-than-average telephone costs.

Higher supply costs—The District's \$2.26 per square foot supply costs were 39 percent higher than the comparable districts' average of \$1.63. Supply costs were high for two reasons:

- **Energy costs**—Although its facilities are smaller than all but one of the comparable districts, the District spent \$1.55 per square foot, or 35 percent more, on energy costs than the comparable districts average of \$1.16 per square foot in fiscal year 2006. Energy costs increased primarily because of a \$37,250 deposit that the District had to pay when establishing service for its new elementary school. If it had not had to pay this fee, the District's energy costs would have been about 9 percent higher than the comparable districts' averaged. Another reason for the high energy costs is that the District has no formal energy conservation plan, and the practices it does have are not applied consistently. For example, at its middle school, the District has an energy management system that allows room temperatures to be changed only within a 2-degree range. However, the new elementary school does not have an energy management system.

¹ Four of the five comparable districts responded to the survey.

Further, according to the District, many of its buildings, including its newest school, are not energy efficient. For example, the new school was built with classroom doors that open directly to the outside, allowing hot air into air-conditioned rooms when doors are opened. Another inefficient building is the middle school gymnasium, which has a metal roof.

- **General supply costs**—The District's fiscal year 2006 \$0.71 per square foot general supply costs were 61 percent higher than the comparable districts' average of \$0.44. These costs include items such as cleaning, plumbing, and construction supplies. According to the District, its fiscal year 2006 costs were high primarily because of the growth in student population and the fact that additional supplies needed to be purchased for the new school that opened in August 2006.

Fiscal year 2007 plant costs remain high—As shown in Table 7 (see page 23), the District's fiscal year 2007 plant operation and maintenance costs per square foot increased by \$0.43, or approximately 6 percent. Once again, the District's costs were higher in all categories than the comparable districts averaged. While some higher costs in fiscal year 2006 were attributable to the set-up costs necessary to open a new school, this was not true in fiscal year 2007. While the District's fiscal year 2007 purchased services and supply costs, including energy costs, decreased, its salary and benefit costs increased. Although the amount of square feet to be maintained did not increase from fiscal year 2006 to 2007, the District added the equivalent of three full-time positions. Specifically, the District added a facilities director, a second facilities manager, and several other part-time positions, including additional custodians and maintenance workers. Further, the District continued to pay for employees to work overtime hours with little apparent effort to control these costs by coordinating maintenance and school bus schedules. These factors heighten the need to develop cost-saving measures.

Recommendations

1. To avoid continued overspending of its Maintenance and Operation Fund budget, the District should review its staffing levels and the amount of overtime worked by staff to:
 - a. Determine whether the number of plant operation and maintenance positions can be reduced, and
 - b. Identify ways to reduce or eliminate the amount of overtime worked by plant employees, such as by coordinating maintenance and school bus schedules.

2. To reduce its water expenditures, the District should monitor water usage at each of its schools and work to isolate high usage areas and identify steps it can take to reduce usage.
3. To reduce its electricity expenditures, the District should develop a district-wide energy conservation plan, which could include monitoring energy usage at each of its schools and identifying ways to lower energy usage based on each site's particular facilities and equipment. Further, the district should educate staff and students about energy conservation and encourage them to help reduce the District's energy use.
4. The District should evaluate its phone and data needs as it plans to add another school in August 2007 and determine how to balance these needs with maintaining lower costs.

CHAPTER 4

Proposition 301 monies

In November 2000, voters passed Proposition 301, which increased the state-wide sales tax to provide additional resources for education programs. The District did not develop a comprehensive plan for spending its Proposition 301 monies and the plan was not submitted to the Governing Board for approval. However, its fiscal year 2006 expenditures were for purposes authorized under statute, and it maintained documentation supporting eligible employees' achievement of performance measures. The District spent its Proposition 301 monies on salaries and related benefits, a portion of which was designated as paying for AIMS intervention activities.

Background

In approving Proposition 301, voters increased the state-wide sales tax by six-tenths of 1 percent for 20 years. Under statute, after allocations for ten state-wide educational purposes, such as school facilities revenue bonds and university technology and research initiatives, the remainder of the revenue goes to the state Classroom Site Fund for distribution to school districts and charter schools. These monies may be spent only in specific proportions for three main purposes: teacher base pay increases, teacher performance pay, and certain menu options, such as reducing class size, providing dropout prevention programs, and making additional increases in teacher pay.

During fiscal year 2006, the District received a total of \$186,028 in Proposition 301 monies and distributed \$173,096 to employees. Unspent Proposition 301 monies remain in the District Classroom Site Fund for future years.

District's Proposition 301 plan was incomplete, but its expenditures were allowable

The District's Proposition 301 plan specified how the District would spend its performance pay monies but not how it would spend base pay and menu option monies. The plan, drawn up by a team consisting of the superintendent, a principal, and two teachers, also did not identify the positions eligible to receive Proposition 301 monies or the amounts that eligible employees could potentially receive. Further, the District's plan was not approved by the governing board as required by A.R.S. §15-977(B).

While its plan was incomplete, the District's expenditure of these monies was for purposes authorized under the statute. The District spent Proposition 301 monies as follows:

Base Pay—While the plan did not specifically identify the eligible positions or amounts, district officials stated that teachers and librarians were eligible to receive up to \$1,100 each in base pay increases. On average, 43 teachers and 2 librarians earned \$939 each, which was prorated for part-time employment and paid in two installments in November and June of the fiscal year. Six other teachers received base pay increases from the District's menu monies.

Performance Pay—Each teacher and librarian meeting all performance pay requirements could earn up to \$1,700. To be eligible to receive performance pay monies, the employee had to participate in at least one of two projects.

- **Mentoring Project (41 percent of performance pay)**—To earn \$700, an eligible employee had to mentor one or more students, as assigned by the superintendent, for a total of 35 hours during the school year.
- **Approved Special Project (59 percent of performance pay)**—Eligible employees could earn \$1,000 by selecting a project approved by the superintendent. Projects included coordinating English Language Learners' testing or sponsoring student clubs, such as the writing club and art club. To receive the performance pay, an eligible employee had to provide the superintendent with documentation of least 50 hours of work toward the project.

On average, 45 teachers and 2 librarians each earned \$1,532 in performance pay.

Menu Options—Statute allows school districts to choose among six different options for allocating the menu monies, including:

- AIMS intervention programs
- Class size reduction
- Dropout prevention programs
- Teacher compensation increases
- Teacher development
- Teacher liability insurance premiums

A.R.S. §15-977 specifies that these monies cannot be used for administration. Further, beginning in 2004, the Legislature also specified that Classroom Site Fund monies spent for AIMS intervention, class size reduction, and dropout prevention can be spent only on instruction, except that they cannot be spent for athletics.

The District stated that it used its menu monies for AIMS intervention activities and base pay increases. Specifically, eligible employees were compensated for performing AIMS intervention activities, such as test score data disaggregation and curriculum mapping. Additionally, according to the District, several teachers also participated in summer programs that targeted students who performed poorly on the AIMS test. Other eligible employees attended summer AIMS-related trainings and were compensated for their time. In total, 26 eligible employees participated in AIMS intervention activities, earning an average of \$1,194 each in menu monies.

The District also spent about \$2,600 of its menu monies on base pay increases for which it did not have sufficient Base Pay monies. Because of student population growth during fiscal year 2006, the District increased its number of teachers. However, it had previously allocated its Proposition 301 monies based on the number of teachers in the prior fiscal year. Therefore, the District used menu monies to pay all or a portion of the base pay increases for six teachers.

Recommendations

1. The District should ensure that its Proposition 301 plan also addresses how it intends to spend base pay and menu option monies. Specifically, the plan should list the positions eligible for and the expected amount of any pay

increases, and it should identify which of the six allowable menu options are being addressed.

2. The District should ensure that it follows all of the provisions of A.R.S. §15-977 regarding performance-based compensation systems, including having the governing board adopt its Proposition 301 plan at a public meeting.

CHAPTER 5

Classroom dollars

A.R.S. §41-1279.03(A)(9) requires the Auditor General to determine the percentage of every dollar Arizona school districts spend in the classroom. Because of this requirement, auditors reviewed the District's recording of classroom and other expenditures to determine their accuracy. The District's fiscal year 2006 classroom dollar percentage of 50.3 percent is well below the state average for the same fiscal year, 58.3 percent. The District's spending on administration, plant operation and maintenance, student transportation, and food service were higher than the state-wide averages. Reducing spending in these nonclassroom areas could potentially help the District spend more money in the classroom.

District's classroom dollar percentage is far below the state and national averages

The District's fiscal year 2006 classroom dollar percentage of 50.3 percent is 8 percentage points below the state average for that fiscal year of 58.3 percent, and 11.2 percentage points below the national average. In reporting its percentages, the District made minor accounting errors totaling approximately \$228,000. For example:

- The District classified a public announcement system as an administrative operating cost rather than a capital cost. Correcting this error resulted in the District's administration costs being reduced by \$80,000.
- Approximately \$58,000 in salary costs for attendance clerks were misclassified as school administration. Instead, these positions should have been classified as student support services based on the nature of their duties. Correcting this error reduced the District's administrative costs.

- Approximately \$30,000 in teacher development costs were misclassified as student support services rather than instructional support services. Correcting this error reduced the District's student support service costs.

Adjustments for these and other errors decreased the District's administrative cost percentage from 12.3 percent to 10.7 percent and increased the classroom percentage from 50.1 percent to 50.3 percent.

Per-pupil spending is lower than state and national amounts—As also shown in Table 8, the District's per-pupil spending is lower than the state and national averages. This lower spending coupled with the lower percentage of dollars going into the classroom resulted in the District's spending only \$3,140 per pupil in the classroom versus the state average of \$3,981 and national average of \$5,274. The District's 50.3 percent spent in the classroom was also lower than the comparable districts' average of 57.9 percent. The District's lower per-pupil spending is related to several factors. Specifically, the District received less in the following areas:

Table 8: Comparison of Expenditure Percentages and Per-Pupil Expenditures by Function
Fiscal Year 2006
(Unaudited)

Spending	Union ESD		Comparable Districts' Average		State Average 2006		National 5-Year Average	
	Percent	Per-Pupil Expenditures	Percent	Per-Pupil Expenditures	Percent	Per-Pupil Expenditures	Percent	Per-Pupil Expenditures
Total Per-Pupil		\$6,256		\$7,172		\$6,833		\$8,576
Classroom dollars	50.3%	\$3,140	57.9%	\$4,156	58.3%	\$3,981	61.5%	\$5,274
Nonclassroom dollars								
Administration	10.7	671	11.8	847	9.4	643	11.0	943
Plant operations	13.4	839	12.5	898	11.2	768	9.6	823
Food service	7.2	448	4.5	321	4.7	323	3.9	334
Transportation	10.2	635	6.3	451	4.2	291	4.0	343
Student support	4.6	292	5.2	373	7.2	490	5.1	438
Instructional support	3.6	231	1.8	126	4.8	327	4.7	403
Other	0.0		0.0		0.2	10	0.2	18

Source: Auditor General staff analysis of fiscal year 2006 School District Annual Financial Reports provided by the Arizona Department of Education, summary accounting data provided by individual school districts, and National Center for Education Statistics' (NCES) annual report, Digest of Education Statistics and fiscal years 2000 through 2004. NCES Common Core of Data (<http://nces.ed.gov/ipeds/>)

- Federal and state program monies**—During fiscal year 2006, the District received only \$175 per pupil in federal and state program monies, while the comparable districts, on average, received \$824 per pupil. The District

received less federal Title I grant money, which is distributed to school districts primarily based on the number of district students living at or below the poverty rate, although the District had a higher poverty rate in fiscal year 2006 than the comparable districts averaged. However, these monies are based on the number of students in the prior fiscal year. In fiscal year 2005, the District had approximately 600 fewer students than in fiscal year 2006. Further, according to the District, in fiscal year 2006, it used a vendor to identify and apply for appropriate grants, including federal and state grants. While this vendor applied for grant monies, such as Title 1 monies, it did not seek out and apply for competitively awarded federal and state grant monies.

- **Transportation**—The District also received less per student in transportation funding. The state transportation funding formula is based on district-reported miles and riders, with more miles resulting in higher funding. However, at 6 square miles, the District is very compact and more than 400 square miles smaller than the comparable districts' average size. In addition, the District drove more than 70,000 route miles less than the average route miles for the comparable districts. The comparable districts' additional transportation funding averaged about \$382 on a per-pupil basis.

Plant, food, and transportation spending is higher, while student and instructional support spending is lower than average

The District spent higher percentages for plant operation and maintenance, food service, and transportation costs than the state averages and the comparison districts' averages. As discussed in the transportation and plant operation and maintenance chapters of this report, it appears feasible for the District to make operational improvements that will allow more dollars to be directed to the classroom. It is especially important for the District to reduce costs in these nonclassroom areas because the District has overspent its budget limits during the past 2 fiscal years. Therefore, lowering costs in these areas will not only help the District move more monies into the classroom, but also keep its spending within statutory budget limits.

Food service—Arizona districts, on average, spent 4.7 percent of their total current expenditures on their food service programs, but Union Elementary spent 7.2 percent in fiscal year 2006. Also, the District spent \$448 per pupil, which was 40 percent more per pupil than the comparable districts' average of \$321. One reason the District incurred higher costs relates to more students eating school meals. Specifically, during fiscal year 2006, the District served approximately 226,000 lunch-equivalent meals while the comparable districts, on average,

served about 118,000 meals. The high number of meals served appears related to a high National School Lunch Program eligibility percentage. The District reported 68 percent of its students eligible for a free or reduced-price lunch in fiscal year 2006, while the comparable districts' reported eligibility averaged 53 percent.

Student support services—The District's student support services expenditures were 2.6 percentage points below the state average and 0.6 percentage points below the comparable districts' average. The District's lower costs appear to relate to its having fewer student support services employees, such as counselors and psychologists. Specifically, the District employed three student support-related full-time equivalent positions (FTE), while the comparable districts employed an average of five FTE. As a result, the District spent 37 percent less on student support salary and benefit costs than the comparable districts.

Instructional support services—The District also spent less on instructional support services, including teacher training, curriculum development, and library services, spending 1.2 percentage points less than the state average. However, the District spent almost 2 percentage points more than the comparable districts' average of 1.8 percent. The District employed four instructional support FTE, while the comparable districts employed an average of two FTE. Therefore, the District had higher instructional support salary and benefit costs. Further, the District spent more on related purchased services, including teacher development activities, and purchased almost \$109,000 worth of library books for its elementary school that opened in August 2006.

Recommendations

1. The District should classify all transactions in accordance with the Uniform Chart of Accounts for school districts.
2. The District should review its noninstructional spending to determine if savings can be achieved and some of these monies can be redirected to the classroom.
3. The District should review available programs and try to gain additional federal and state program monies to supplement funding available for its classrooms.

CHAPTER 6

English Language Learner programs, costs, and funding

The District has only recently developed an ELL program, and the program is not in full compliance with state statutes. The District did not begin English language proficiency testing until fiscal year 2005, and it did not begin receiving funding for ELL programs until fiscal year 2007. Although it did not receive any funding during fiscal year 2006, the District provided English language instructional software and a bilingual instructional aide in its language arts classes. Fiscal year 2007 ELL programs consisted of Structured English Immersion (SEI) and mainstream classes. For its SEI program, the District provided 45-minute language acquisition sessions for students classified at pre-emergent, emergent, and basic levels of language proficiency. The District will need to make substantial changes in the future, as statute now requires the ELL Task Force to develop models including 4 hours of daily English language acquisition instruction for first-year ELL students. In fiscal year 2007, the District received approximately \$132,000 in state and federal monies to fund its ELL programs, and it spent approximately \$128,900, primarily on salaries and benefits for three bilingual instructional aides.

Background

English Language Learners are students whose native language is not English and who are not currently able to perform ordinary classroom work in English. ELL students are identified through a state-adopted language proficiency test. School districts and charter schools are required to administer this test to students if the primary language spoken in the student's home is other than English, and then re-test annually those students identified as ELL. School districts must then report the test results to the ADE.

By reporting their numbers of ELL students, districts are eligible for additional monies for ELL programs through the State's school-funding formula, the federal Title III

program, and other sources. In addition, effective in September 2006, HB 2064 established the SEI and Compensatory Instruction (CI) funds and programs. Among other things, this law established an English Language Learner Task Force to develop and adopt research-based, cost-efficient SEI program models and establish procedures for determining the models' incremental costs—that is, the costs incurred that are in addition to those associated with teaching English fluent students. The law also requires the Office of the Auditor General to biennially audit the State's ELL program, review ELL requirements in school district performance audits, and conduct financial audits of the SEI and CI budget requests of school districts selected for monitoring by ADE.

Types of ELL programs in Arizona

During fiscal year 2006, school districts and charters offered ELL programs that are described in statute as Structured or sheltered English Immersion, Bilingual, and Mainstream.¹

- Structured English Immersion, or sheltered English immersion, is an English language acquisition process providing nearly all classroom instruction in English, but using a curriculum designed for children who are learning the language.
- Bilingual education/native language instruction is a language acquisition process providing most or all of the instruction, textbooks, and teaching materials in the child's native language. Many Bilingual programs were eliminated after Proposition 203 was approved in November 2000.² However, some districts still maintain these programs for parents who sign waivers to formally request that their child be placed in a Bilingual program.
- Mainstream programs place ELL students in regular classrooms along with English fluent students when the student is close to becoming English proficient or when there are not enough ELL students to create a separate SEI class. Generally, ELL students in Mainstream classrooms receive the same instruction as English fluent students, but receive additional support, such as small group lessons or assistance from an instructional aide.

Effective in fiscal year 2007, ELL compensatory instruction programs are defined as programs that are in addition to normal classroom instruction, such as individual or small group instruction, extended-day classes, summer school or intersession, and that are limited to improving the English proficiency of current ELL students and those who have been reclassified within the previous 2 years.

¹ These programs are described in A.R.S. §15-751.

² In November 2000, voters passed Proposition 203, requiring that schools use English to teach English acquisition and that all students must be placed in English classrooms. The new law required that schools use SEI programs and eliminate the use of Bilingual programs unless approved by parents with signed waivers.

Figure 2: ELL Requirements for School Districts and Charter Schools
House Bill 2064 Provisions

School districts and charter schools are required to:

- Assess the English proficiency of new students when it is indicated that the primary language spoken in the home is other than English. In addition, students already identified as ELL must be tested annually.
- Monitor former ELL students who have been reclassified as English proficient and re-test their language proficiency annually for 2 years.

School districts and charter schools with ELL students can:

- Submit a CI budget request to the ADE and use these monies as specified to supplement existing programs.
- Adopt an SEI model and submit an SEI budget request to the ADE, then use the monies as specified to supplement existing programs.

Source: Auditor General staff analysis of Laws 2006, 2nd Regular Session, Chapter 4 (HB 2064).

District's ELL program

The District first began testing its students with a primary home language other than English for language proficiency in fiscal year 2005. District officials indicated that they were not aware of the testing requirement before then. The District did not receive subsequent-year state funding for the 253 ELL students identified in fiscal year 2005 testing because it missed the deadline for reporting ELL test scores to the ADE.

During fiscal year 2006, the annual testing again identified 253 ELL students. The District assigned a bilingual instructional aide to provide classroom assistance to pre-emergent and emergent ELL students in kindergarten and first grade. Students at the basic and intermediate ELL levels were placed in Mainstream classrooms and had the assistance of Bilingual instructional aides during their language arts classes.

Levels of English Language Proficiency

Pre-emergent—Student does not understand enough language to perform in English.

Emergent—Student understands and can speak a few isolated English words.

Basic—Student may understand slower speech, and speak, read, and write simple words and phrases, but often makes mistakes.

Intermediate—Student can understand familiar topics and is somewhat fluent in English, but has difficulty with academic conversations.

Proficient—Student can read and understand texts and conversations at a normal speed, and can speak and write fluently with minor errors.

Source: Arizona Department of Education.

During fiscal year 2007, the ELL program served 401 students using SEI and Mainstream classrooms. Specifically:

- **SEI**—This portion of the program provided 45 minutes of language acquisition tutoring in pull-out sessions for students classified as pre-emergent, emergent, and basic levels of language proficiency, regardless of grade level. "Pull-out" sessions remove students from the regular classrooms for specialized instruction. However, according to the District, at times these tutoring sessions focused on helping ELL students complete homework or coursework for other classes, such as math and science.
- **Mainstream**—Students classified as having intermediate language proficiency remained in their regular classrooms. These students received support from bilingual instructional aides during their language arts classes. These instructional aides primarily interpreted the teacher's instructions and helped the ELL students understand assignments.

To carry out its ELL program, the District employed three full-time ELL aides and a part-time program coordinator. The District also ensured that all of its teachers obtained the state-required SEI certification. The District has not provided a compensatory instruction program, but has applied for CI Fund monies to implement such a program in fiscal year 2008.¹

As it implements the new statutory requirement to provide first-year ELL students with 4 hours of English language acquisition, the District will need to substantially expand its language development instruction.² In June 2007, the ELL Task Force issued a draft SEI model describing the required content for the 4 hours of language acquisition. Once the ELL Task Force has finally adopted such a model, the District will be required to adopt it.

District's ELL funding and costs

The District did not receive any ELL-specific funding in fiscal year 2006 as it did not report its identified ELL students in a timely manner. Costs for that fiscal year included about \$4,000 for Rosetta Stone™ English language instructional software and an estimated \$32,720 in salary costs. Staffing included one FTE bilingual instructional aide to administer ELL testing and assist ELL students in language arts classes. The District stated that the software and instructional aide were provided for ELL students only. Because it was not required, the District did not record any ELL costs in its accounting records in this fiscal year.

¹ CI programs in this context are sessions outside the normal classroom, such as summer school or after school tutoring, specifically directed at language acquisition and development.

² A.R.S. §15-756.01(C) requires the ELL Task Force to develop models that include a minimum of 4 hours per day of English language development for the first year that a student is classified as an English language learner. These models were to be adopted by September 1, 2006, but are still in draft form as of August 1, 2007.

During fiscal year 2007, the District began recording ELL program costs, including salaries and benefits for three bilingual instructional aides, classroom supplies, and ELL-related training. These costs, which totaled about \$128,900, appear to be incremental costs as the supplies and training are ELL-specific, and the aides, the only ones in the classrooms, are supposed to assist ELL students only. The District received almost \$132,000 in ELL-related funding, including \$92,202 in additional state aid known as ELL B weight monies, \$34,731 in federal Title III monies, and \$5,000 in SEI training reimbursement funding.

Recommendation

1. Once the ELL Task Force has adopted SEI models, the District should ensure it appropriately modifies its ELL programs and instruction methods. In particular, the District should comply with the requirement to provide 4 hours of English language acquisition in an ELL student's first year.

DISTRICT RESPONSE

August 3, 2007

Ms. Debbie Davenport
Auditor General
2910 N. 44th Street Suite 410
Phoenix, AZ. 85018

Re: Response to the Performance Audit Fiscal Year 2005-2006

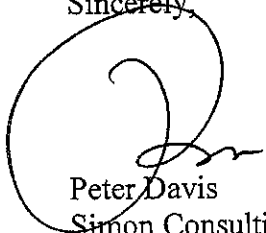
Dear Ms. Davenport:

Enclosed you will find the District's response to the Fiscal Year 2006 Performance Audit conducted by your staff during the period of February through May 2007. We view our response as a work in progress, but feel it is important to share with you many changes that have already occurred and a preliminary action plan for financial success. It is with great appreciation we receive the report as it is seen as an essential piece of the puzzle to Union Elementary's goal of restoring financial solvency and efficiency to better serve its constituents. The report details and recommendations have already been extremely helpful and have been used to establish baseline data for the areas reviewed.

After meeting with your staff and gaining invaluable insight and recommendations for improvement it is evident that the Union Elementary School District has many challenges ahead of it. We also know that change is a slow process and often has the obstacle of the unknown. We are very grateful to have your report and its details to be able to begin the process of sustained, academic and financial improvement and all but eliminating that often difficult obstacle.

As we go through this process we look forward to the visits from your office and the ongoing dialogue and assistance to improve the Union Elementary School District.

Sincerely,



Peter Davis
Simon Consulting
As Receiver
For Union Elementary School District



Bill Christensen
Tolleson Elementary School District #17
Interim Superintendent
For Union Elementary School District

Overview of Current District Situation

As noted by your staff the district has faced significant challenges over the past three years related to student growth and financial hardship. The district has overspent its Maintenance and Operations (M&O) budget consistently the past three years totaling nearly \$3 million creating a significant deficit in the Fiscal Year 2008 budget. It is also important to note that in May of 2007 the district was unable to pay its employees resulting in the Legislature authorizing a financial Receiver in June of 2007 and approving a deferred repayment of debt over 5 fiscal years plus accrued interest.

Since the inception of the Receiver's authorities in late June, several personnel changes have occurred resulting in immediate and measurable improvements. In early July the Superintendent and Business Manager resigned, an Intergovernmental Agreement was approved with Tolleson Elementary School District #17 to provide administrative and financial consulting for operations, the school year start date pushed back to August 13, 2007 and all immediate purchasing contracts terminated until a complete analysis and determination of necessity could be done.

These initial key steps have allowed the Receiver and the Tolleson Elementary School District Superintendent the opportunity to analyze the situation of the district and begin making changes to the current practices with the goal of improving financial and academic success.

Intergovernmental Agreement

As noted above, in July of 2007 the Tolleson Elementary School District and the Union Elementary School District Governing Boards approved an Intergovernmental Agreement (IGA) allowing the Tolleson Elementary School District Superintendent and Administrative Staff the authority to work with the financial Receiver with the goal of

reaching financial solvency and academic improvement. The goal of the Tolleson Elementary School District Administrative Team is to not only provide effective student focused leadership, but to utilize the efficiency and economy of scale of procurement, transportation, warehousing, special education, and support operations for both school districts. It is believed that by blending the administrative teams, both districts will become more efficient and therefore Union Elementary will be able to reduce administrative costs, transportation costs, and utilize research and proven academic programs from the Tolleson Elementary School District.

Chapter 1: Administration

We are very pleased with the positive staffing levels noted in your report related to administrative costs. The district will continue to look for efficiencies and look to reduce administrative costs with the goal of returning more dollars to the classroom.

Recommendation 1: (Chapter 1)

The District's administration should take any necessary steps to control costs in all non-instructional areas, including administration, to avoid overspending its M&O Fund budget.

Response:

We agree with the recommendation and steps have already been taken to control spending. The Tolleson Elementary staff and the financial Receiver staff have implemented line item budgeting and remote requisitions that are budget controlled. This small step alone will work toward the goal of eliminating department over-expenditures by providing all administrative staff with a more efficient tool that monitors district spending. The Administrative Team will also provide each department with line item budgets that will allow site and department administrators further control over spending related to their needs. In addition, the Receiver has implemented controls that require the Receiver's approval for any expenditure over \$5,000.

Recommendation 2: (Chapter 1)

The District should ensure that it follows competitive purchasing rules when purchasing goods and services.

Response:

We agree with the recommendation and are taking steps to ensure proper procurement processes are followed. Currently all contracts, practices, procedures, and forms are being reviewed for compliance with Arizona Procurement Code and USFR requirements. The Administrative Team expects to see tremendous improvement in this area. In addition, the Receiver has implemented controls that require proper documentation before obtaining the receiver's approval for expenditures above a \$5,000 threshold.

Chapter 2: Student Transportation

We realize that student transportation is an area of concern for the district. In analyzing contracts, procedures, and safety protocols we also recognize the challenges in this department. We also believe that this department was an area for significant over-expenditures as noted by your data and by the necessity to supplement this department financially by almost \$434,000 last year. The goal is to eliminate or drastically reduce transportation costs as recommended in the performance audit and to reduce the supplementing of the program.

Recommendation 1: (Chapter 2)

The District should ensure that it properly procures any contracted transportation services. Further, the District should establish and maintain written contracts with the special needs transportation vendors and require detailed invoices so that it can ensure that it is being correctly billed for the services provided.

Response:

We also noted a large challenge with the transportation contracts and verbally terminated all contracts on July 30, 2007 with the recommendation to the Governing

Board for formal termination in August. At this time we are no longer using the contracts, and we are reviewing and auditing prior year billings for discrepancies. The services that were being provided by the contracted companies will now be provided by Union Elementary and Tolleson Elementary staff utilizing the IGA to cut costs for both districts. The measurable savings for the district will be close to \$250,000.

Recommendation 2: (Chapter 2)

The District should develop and monitor performance measures such as cost per mile, cost per rider, and bus capacity utilization.

Response:

We concur with this recommendation and will immediately implement a protocol that monitors these benchmarks on a monthly basis. We recognize that current levels of spending are not within comparable district norms and will use these benchmarks when creating new school year bus routes, determination of riders, and bus stops.

Recommendation 3: (Chapter 2)

The District should ensure that drivers continue to record the miles driven and riders transported, and use this information to accurately report to ADE.

Response:

We have evaluated current mileage tracking procedures and have found them to be inadequate. Starting this school year we will implement procedures that are used by Tolleson Elementary School District that have been audited and considered compliant. The increase in route reporting accuracy will assist in ensuring proper mileage to cost ratios are maintained and proper staffing levels maintained. The IGA will allow both districts to implement one system and share staffing, procedures, and protocols to increase the efficiency of both districts.

Recommendation 4: (Chapter 2)

The District should ensure that vehicle preventative maintenance and random drug and alcohol tests for bus drivers are conducted and documented as specified in the Minimum Standards.

Response:

We have audited the driver and vehicle files and concur with the recommendation. Currently, driver and vehicle documentation does not meet the Minimum Standards as specified. To correct the deficiencies, Union Elementary drivers and vehicles will be supervised, serviced, and trained by Tolleson Elementary Transportation Administration utilizing the IGA. All deficiencies related to driver minimum standards and vehicle records will be corrected by December 2007.

Chapter 3: Plant Operation and Maintenance

We realize that plant operation and maintenance costs are extremely high and plan to significantly reduce the cost per square foot in fiscal year 2008. The report notes overtime and high energy costs as a direct cause of the high expenditures per square foot and we agree. Currently, very few measures to control overtime or use of facilities were in place, resulting in no control over staff hours.

Recommendation 1: (Chapter 3)

To avoid continued overspending of its Maintenance and Operation Fund budget, the District should review its staffing levels and the amount of overtime worked by staff to:

- a) Determine whether the number of plant operation and maintenance positions can be reduced, and
- b) Identify ways to reduce or eliminate the amount of overtime worked by plant employees, such as by coordinating maintenance and school bus schedules.

Response:

We concur with these recommendations and have already identified staff positions and hours to be cut this fiscal year. This department along with student transportation will be the focus of cuts to ensure the district does not overspend this fiscal year. Currently, the third school will open, but custodial positions have been cut from 9 full-time staff to 7 and a reduction of 12 months to 10 months worked for all staff. In addition, 4 of the staff members' hours will be cut from 8 to 6 per day. These reductions in staff and hours are expected to bring the cost square per footage closer to the comparable districts and reduce plant staff costs by approximately \$150,000. Secondly, measures have been put in place to hold supervisors and hourly staff to overtime approval. At this time no overtime has been approved, however, staff overtime costs have continued. We are now disciplining and holding specific employees accountable in accordance with state law and district policy.

Recommendation 2: (Chapter 3)

To reduce its water expenditures, the District should monitor water usage at each of its schools and work to isolate high usage areas and identify steps it can take to reduce usage.

Response

We agree with the recommendation and will begin to monitor monthly water usage by site. Every effort will be made to identify high usage areas and address the needs. In some cases, faucets and sprinklers can be switched to low-flow heads. The district has also equipped the new school with room motion sensors to eliminate wasted electricity in unoccupied rooms. We will also evaluate the grounds and seek ways to eliminate costs associated with watering landscaping.

Recommendation 3: (Chapter 3)

To reduce its electricity expenditures, the District should develop a district-wide energy conservation plan, which could include monitoring energy usage at each of its schools and identifying ways to lower energy usage based on each site's particular

facilities and equipment. Further, the district should educate staff and students about energy conservation and encourage them to help reduce the District's energy use.

Response

We agree with the recommendation and will look to begin staff and student energy conservation programs this school year. Second, monthly tracking tools will be implemented to measure monthly usage and identify problem areas and establish energy benchmarks by school.

Chapter 4: Proposition 301 monies

We have analyzed the current plan and agree with the report's findings. Currently, the district is not effectively budgeting or utilizing its Proposition 301 monies to improve student achievement. In the beginning of the next school year, a Union Elementary School District Prop 301 committee will be established to work with the Tolleson Elementary School District staff and Prop 301 committee, utilizing the IGA, and establish a written and comprehensive Prop 301 plan. This plan will encompass all of the 9 recommended points by the Performance Pay Task Force and will be submitted for Governing Board approval as soon as it is ready. No Classroom Site Fund monies will be distributed until a Governing Board approved plan can be adopted.

Recommendation 1: (Chapter 4)

The district should ensure that its Proposition 301 plan also addresses how it intends to spend base pay and menu option monies. Specifically, the plan should list the positions eligible for and the expected amount of any pay increases, and it should identify which of the six allowable menu options are being addressed.

Response

As indicated above, a Prop 301 committee made up of stakeholders will explore options for Classroom Site Fund monies, with the focus on improving instruction. The committee will make very specific recommendations to the Governing Board and

effectively meet as many of the Performance Pay Task Force's recommended areas as possible.

Recommendation 2: (Chapter 4)

The District should ensure that it follows all of the provisions of A.R.S. 15-977 regarding performance based compensation systems, including having the Governing Board adopt its Proposition 301 plan at a public meeting.

Response

We will ensure that all of the requirements are met and properly approved by the Governing Board prior to any monies being released to staff.

Chapter 5: Classroom Dollars

We agree with the report and, as with all school districts, the focus must be on returning as many dollars to the classroom as possible. At this time it is difficult to create a goal for the district, but we are focused on increasing the percentage for fiscal year 2008.

Recommendation 1: (Chapter 5)

The District should classify all transactions in accordance with the Uniform Chart of Accounts for school districts.

Response

We concur with the recommendation and will implement procedures to ensure the proper identification of district expenses.

Recommendation 2: (Chapter 5)

The District should review its non-instructional spending to determine if savings can be achieved and some of these monies can be redirected to the classroom.

Response

We agree with the recommendation and have already begun to address positions that can be eliminated or reduced with the goal to reallocate these non-instructional dollars as instructional dollars. At this time approximately \$250,000 has been identified and will be cut or returned to the instructional portion of the budget as the district continues to grow. The process of reallocating dollars is an ongoing process and procedures will be put into place to increase classroom dollar spending.

Recommendation 3: (Chapter 5)

The District should review available programs and try to gain additional federal and state program monies to supplement funding available for its classrooms.

Response

We agree with this recommendation and are already in the process of creating budgets to effectively utilize grant funding to improve student achievement. In addition to the financial problems the district has had it is also struggling academically with Adequate Yearly Progress (AYP) and AZ Learns with a failing school. It is the intent to utilize federal and state grants to supplement the instructional support program and start to focus classroom efforts on sustained academic improvement.

Chapter 6: English Language Learner programs, costs, and funding

We thank staff for providing valuable information about the district's ELL program and expenditures. We have just started analyzing procedures, reporting, and testing protocols and have seen similar challenges as noted in the report. We are very committed to improving this academic program and are monitoring the ELL Task Force and the Flores Lawsuit. Like all districts with similar demographics, the ELL program is difficult to implement based on the current funding sources. However, the district will be committed to making every attempt to comply with whatever model the Task Force approves. Currently the district is not effectively testing and identifying ELL students and therefore having a difficult time transitioning students to English Fluency. It is also important to recognize that financial problems will stretch the district's budget to be able

to hire additional staff for just this program. It is the intent to continue to analyze the current program and look at current staff qualifications and implement an effective ELL program.

Recommendation 1: (Chapter 6)

Once the ELL Task Force has adopted SEI models, the District should ensure it appropriately modifies its ELL programs and instruction methods. In particular, the District should comply with the requirement to provide 4 hours of English language acquisition in an ELL student's first year.

Response

We agree the district's ELL program needs substantial change and are looking to improving the model and number of students that are exited. We don't necessarily support the 4 hour English language requirement that is being proposed by the Task Force because of its unproven success rate. Nonetheless we are committed to improving academic progress of all students and therefore will do whatever it takes to improve the program and comply with ADE requirements.

Attachment 4

Intergovernmental Agreement and Cooperative Purchasing Agreement Between Union Elementary School District No. 62 and Tolleson Elementary School District No. 17

When recorded, return to:
Tolleson Elementary School District No. 17
Attn: Superintendent
9261 W. Van Buren
Tolleson, AZ 85353

**INTERGOVERNMENTAL AGREEMENT
AND COOPERATIVE PURCHASING AGREEMENT
BETWEEN UNION ELEMENTARY SCHOOL DISTRICT NO. 62 AND
TOLLESON ELEMENTARY SCHOOL DISTRICT NO. 17**

RECITALS

WHEREAS, pursuant to Chapter 238, Laws 2007 and Arizona Revised Statutes ("A.R.S.") § 15-103, the Arizona State Board of Education has appointed a receiver (the "Receiver") and placed the Union Elementary School District No. 62 ("Union") into receivership; and

WHEREAS, Union desires to utilize personnel resources of the Tolleson Elementary School District No. 17 ("Tolleson") to assist the Receiver and to temporarily perform administrative and consulting services on behalf of Union; and

WHEREAS, Union and Tolleson have determined that they can more efficiently serve their residents by endeavoring to procure and use materials and services cooperatively when doing so is feasible; and

WHEREAS, Union and Tolleson (individually "Party" and collectively, the "Parties") have the legal authority to enter into this Intergovernmental Agreement and Cooperative Purchasing Agreement ("Agreement") pursuant to A.R.S. § 11-951 et seq. and A.R.S. § 15-342(13), and A.R.S. § 41-2632 and A.A.C. § R7-2-1191.

NOW, THEREFORE, in consideration of the mutual promises made herein, the Parties agree as follows:

AGREEMENT

1. Purpose. The purpose of this Agreement is to set forth the terms upon which the Parties will share administrative and other resources, and cooperatively purchase and use materials and services when feasible.

2. Term. This Agreement shall commence on July 13, 2007 and shall terminate on June 30, 2008. The Parties may agree to renew this Agreement for two additional one-year terms. Payment, performance and obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.

3. Administrative and Consulting Services

A. Duties and Obligations of Tolleson

(i) Tolleson shall provide temporary administrative and consulting services (the "Services") to Union, including the performance of duties set forth in Union's job descriptions for its superintendent and business manager. Tolleson's superintendent ("Superintendent") and other administrative staff, including the assistant superintendent, administrator of human resources, administrator of special services, executive director of curriculum and instruction and executive director of business services (collectively "Administrative Staff") shall provide Services as reasonably requested by the Receiver or Union's Governing Board (the "Governing Board").

(ii) While performing the Services for Union, Superintendent and Administrative Staff shall attend meetings of the Governing Board, and other Union meetings and functions, as requested by the Receiver or Governing Board.

(iii) While performing the Services for Union, Superintendent and Administrative Staff shall serve as agents of Union, provided however, that none shall have the authority to bind Union to any agreements or contracts not previously approved by the Receiver and/or Governing Board. Except for liabilities which result from the gross negligence or willful misconduct of Superintendent or Administrative Staff, any liabilities arising from the performance of Services by Superintendent or Administrative Staff on behalf of Union shall be considered liabilities of Union and not Tolleson.

(iv) While performing the Services for Union, Superintendent and Administrative Staff shall, on behalf of Union, participate in such discussions and negotiations, and sign such documents, necessary for Union to carry out its educational objectives, provided however, that none shall have the authority to bind Union to any agreements or contracts not previously approved by the Receiver and/or Governing Board.

(v) Nothing in this Agreement shall be construed to require Superintendent or Administrative Staff to provide any services or engage in any activities on behalf of Union that would create a conflict of interest or cause a breach of their duties to Tolleson.

B. Duties and Obligations of Union.

(i) Union shall provide Superintendent and Administrative Staff appropriate access to documents and records, and shall permit Superintendent and Administrative Staff to participate in all meetings the Parties agree are necessary for Tolleson to fulfill its duties and obligations under this Agreement.

(ii) Union shall provide Superintendent and Administrative Staff prior adequate notice of all Union meetings and functions at which the attendance of Superintendent and Administrative Staff may be necessary. Union shall make reasonable accommodations to coordinate Union duties with the demands placed on Superintendent and Administrative Staff by Tolleson.

C. Compensation. In exchange for Tolleson's provision of the Services, Union shall pay Tolleson a monthly fee of seven thousand five hundred dollars (\$7,500), plus indirect costs not to exceed two thousand five hundred dollars (\$2,500), payable on the first day of each month that this Agreement is in effect, except that payment for the months of July and August, 2007, shall be due and payable upon the execution of this Agreement. Union shall establish and maintain a budget for the payment of compensation to Tolleson for Tolleson's provision of the Services.

D. Student Information. As a part of this Agreement, Superintendent and Administrative Staff will have access to student educational records as defined by the Family Educational Rights and Privacy Act of 1974 ("FERPA"). Tolleson understands that disclosure of such records to an unauthorized person is a violation of law. Tolleson also acknowledges that disclosure of Union's student's records to persons other than the student or authorized representatives of Union requires Union to obtain prior and specific student authorization. Tolleson understands that a violation of this provision is a material breach of this Agreement and that Union may terminate the Agreement immediately or exercise any other contractual or legal remedies.

E. Confidential Information. As a part of this Agreement, Superintendent and Administrative Staff will have access to information which is confidential in nature, including information pertaining to Union employees. Tolleson will not disclose confidential information to any person not preauthorized by Union. For purposes of this section, confidential information does not include (a) information that is known to Tolleson on the date of this Agreement, (b) information that is in or enters the public domain through no fault of Tolleson or its representatives or agents, or (c) information that is made known to Tolleson on a nonconfidential basis from an unsolicited source (other than Union) provided Tolleson has no reason to know or believe that such source obtained the information improperly or is bound by an agreement not to disclose the information. Tolleson understands that a violation of this provision is a material breach of this Agreement and that Union may terminate the Agreement immediately or exercise any other contractual or legal remedies. Tolleson agrees to indemnify Union from any unauthorized disclosure of confidential information.

4. Cooperative Purchasing and Use of Materials and Services. Pursuant to A.R.S. § 41-2632 and R7-2-1191, when both Parties determine that it is in their best interests, they will jointly procure services or materials; cooperatively use services and materials; share facilities; provide to each other the services of each other's personnel; and make available to each other informational, technical or other services that may assist in improving the efficiency or economy of procurement (collectively "Cooperative Efforts").

A. General Cooperative Effort Provisions.

(i) Each Party shall be responsible for its own expenses incurred in the performance of this Agreement except as otherwise provided in this Agreement and except as the Parties may specifically agree in addenda to this Agreement.

(ii) Pursuant to R7-2-1192, payment for materials and services and inspection and acceptance of materials or services ordered by a Party under this Agreement shall be the exclusive obligation of that Party.

(iii) Pursuant to A.R.S. § 41-2632 and R7-2-1191, if either Party makes use of the services of the personnel of the other Party pursuant to this Agreement, the Party receiving the services shall pay to the Party providing the services the direct and indirect cost of providing such services.

(iv) Pursuant to R7-2-1192, the exercise of any rights and remedies under this Agreement by either Party shall be the exclusive obligation of said Party.

(v) Pursuant to R7-2-1192, the failure of one Party to secure the performance of the other Party in accordance with the terms and conditions of its purchase order does not necessarily require any other school district to exercise its own rights or remedies.

B. Specific Cooperative Efforts.

(i) The Parties will cooperate in the use of their transportation resources. Each Party shall reimburse the other for the direct and indirect costs associated with the use of the other Party's transportation facilities, equipment and services, including costs of repair. Such costs will be billed on a monthly basis, and payment shall be due within thirty days.

(ii) The Parties will cooperate in the procurement and use of their food service materials and resources. Each Party shall be responsible for paying the cost of any food service items procured for that Party's use. Each Party shall reimburse the other for the direct and indirect costs associated with the use of the other Party's food service resources. Such costs will be billed on a monthly basis, and payment shall be due within thirty days.

(iii) The Parties will cooperate in the use of Tolleson's fuel pumps. Tolleson will bill Union for its use of fuel from Tolleson's pumps on a monthly basis in an amount equal to the per gallon price paid by Tolleson plus 3.5 percent. Payment shall be due within thirty days of Union's receipt of Tolleson's bill.

(iv) The Parties will share warehousing and other facilities to the extent that space is made available and unused by the owner Party. Each Party shall reimburse the owner Party for any costs associated with the non-owner Party's use, including any out-of-pocket expenses that result from the facility use and periodic repair costs occasioned by the use of the non-owner Party. Each Party agrees either to repair or pay any damage (other than normal wear and tear) done to the other's property while under the control of, and as a direct result of the use of that property by the non-owner Party, and its employees, agents and invitees.

(v) The Parties will cooperate in the purchase of textbooks and other classroom materials. Each Party shall be responsible for paying the cost of the textbooks and materials procured for that Party's use.

(vi) The Parties will cooperate in the use of the services of each other's non-Administrative personnel. The Party receiving services shall pay the Party providing the services the direct and indirect cost of providing such services. Such costs will be billed on a monthly basis, and payment shall be due within thirty days.

(vii) The Parties will establish and maintain a budget for the payment or reimbursement of all Cooperative Efforts.

C. Other Cooperative Efforts. The Parties may agree to additional specific Cooperative Efforts by executing a written addendum to this Agreement that specifies: (a) the specific cooperative effort and the manner in which the cooperative effort is to be handled; and (b) the payment and/or financial terms for the cooperative effort. The terms of this Agreement shall apply to all addenda to this Agreement except that, in the event of a conflict between the terms of this Agreement and any addendum, the terms of the addendum shall control. Any addendum to this Agreement may itself be terminated at will by either Party by giving written notice to the other Party. The termination of any addendum shall not affect the enforceability of the remainder of this Agreement.

5. Termination. Either Party may terminate this Agreement by providing thirty (30) days advance written notice to the other Party. Pursuant to R7-2-1192, either Party may terminate this Agreement without notice if the other Party fails to comply with the terms of the Agreement. Upon termination of the Agreement, the Parties will disengage their cooperative efforts equitably and in such manner as to cause minimal disruption to the provision of educational services.

6. Conflict of Interest: The Parties acknowledge that this Agreement is subject to cancellation provisions pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein and made a part thereof.

7. Non-Appropriations. Either Party may terminate this Agreement provided that funds are not appropriated by the state legislature or the federal government for the continuation of the Agreement.

8. Return of All Property. Except as otherwise required by law, upon the termination of this Agreement, and within ten (10) working days of termination of this Agreement, Tolleson shall return to Union all documentation, records or other property belonging to Union, and Union shall return to Tolleson all documentation, records or other property belonging to Tolleson. If, upon termination, either Party has paid a portion of the acquisition cost of property held in the name of the other Party, the Party that does not hold title shall be entitled to reimbursement by the other Party. Such reimbursement shall be in an amount equal to the then-current value of the asset at the time of termination multiplied by a fraction, the numerator of which is the portion of the acquisition cost of the property paid by the Party that does not hold title to the property and the denominator of which is the total acquisition cost of the property. Upon the termination of any addendum to this Agreement pursuant to which one Party has paid part of the acquisition cost of property held in the name of the other Party, reimbursement shall be made in the manner set forth in this paragraph even if the Agreement itself has not been terminated.

9. Authority. The undersigned administrators represent that they are fully authorized by their respective district to execute this Agreement, as evidenced by minutes of the governing board meeting or other district documentation or policy.

10. Insurance. The Parties each represent and warrant to the other that it shall at all times retain insurance coverage in compliance with state laws and shall name the other Party as an additional insured.

11. Mutual Indemnification. Each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "Indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney fees), hereinafter collectively referred to as "claims," arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

12. Compliance with Non-Discrimination Laws. The Parties shall comply with all provisions of applicable federal, state, and local laws relating to non-discrimination, equal employment opportunity and the Americans with Disabilities Act.

13. Interpretation.

A. Entire Agreement. This Agreement contains the entire understanding of the Parties. All prior and contemporaneous agreements, representations and understandings of the Parties with respect to the subject matter hereof, oral or written, are superseded by this Agreement. Any amendment or modification of this Agreement shall be made only in writing and signed by the Parties.

B. Assignments: Binding Effect. Neither Party may assign, sublet, mortgage or encumber any right or interest under this Agreement without the prior written consent of the other Party. Either Party may withhold its consent in its absolute and sole discretion.

C. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

D. Time is of the Essence. Time is of the essence of this Agreement and of each covenant, duty and obligation hereunder.

E. Governing Law. This Agreement shall be construed and enforced under the laws of the State of Arizona without regard to its conflict of law provisions.

F. Captions. The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

G. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the provision shall be modified to the extent necessary to make it enforceable, or if it cannot be so modified, then severed, and the remaining terms of this Agreement shall remain in full force and effect, and it is hereby declared the intention of the parties that they would have executed the Agreement as so modified.

H. No Implied Waivers. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by a Party of a breach of any provision of this Agreement shall be construed as a waiver of any prior or succeeding breach of the same or any other provision of this Agreement.

I. Notice. Any notice required or permitted under the terms of this Agreement shall be deemed sufficiently given if transmitted by certified mail (postage prepaid), or by facsimile and/or electronic mail provided that the emitting device produces a record of the date and time of emission, to:

Union Elementary School District No. 62

3834 S. 91st Ave.

Tolleson, AZ 85353

Phone: 602 279-7503

Fax: 602 279-7510

E-Mail of contact person pdavis@simonconsulting.net

(Name of contact) Peter S. Davis

Tolleson Elementary School District No. 17
9261 W. Van Buren
Tolleson, AZ 85353
Phone: 623-936-9740
Fax: 623-936-9757
E-Mail of contact person: bchristensen@tesd.k12.az.us
(Name of contact) Bill Christensen, Superintendent

J. Non-Joint Venture. Each Party shall retain complete jurisdiction over such programs of its own that are outside of this Agreement. Nothing in this Agreement shall be construed to establish a joint venture.

K. Counterparts. This Agreement may be executed in several counterparts, each of which will be an original, but all of which together will constitute one and the same Agreement.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates written below:

**UNION ELEMENTARY SCHOOL DISTRICT
NO. 62**

Date: 9/4/07

By: [Signature]
Its: Superintendent

REVIEWED AND APPROVED AS TO FORM:

In accordance with A.R.S. § 11-952, this Agreement has been reviewed by the undersigned who has determined that this Agreement is in appropriate form and within the powers and authority granted to Union Elementary School District No. 62.

[Signature]
Blaine Searle, Gust Rosenfeld, PLC
Attorney for Union Elementary School District No. 62

Date: 8/28/07

**TOLLESON ELEMENTARY SCHOOL
DISTRICT NO. 17**

Date: 9/4/07

By: [Signature]
Its: Superintendent

REVIEWED AND APPROVED AS TO FORM:

In accordance with A.R.S. § 11-952, this Agreement has been reviewed by the undersigned who has determined that this Agreement is in appropriate form and within the powers and authority granted to Tolleson Elementary School District No. 17.

[Signature]
Susan Cannata, Miller, LaSota & Peters, PLC
Attorney for Tolleson Elementary School District No. 17

Date: 9/12/07